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Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[B.A.I. Order 384, Amdt. 12]

PART 79—SCRAPIE IN SHEEP

Changes in Areas Quarantined

Pursuant to the provisions of sections 1 and 3 of the Act of March 3, 1905, 33 Stat. 1264, as amended, sections 4 and 5 of the Act of May 29, 1884, 23 Stat. 32, as amended, and sections 1 and 2 of the Act of February 2, 1903, 32 Stat. 791, as amended (21 U.S.C. 111–113, 120, 121, 123, 125), § 79.2, as amended, Part 79, Title 9, Code of Federal Regulations, containing a notice of the existence in certain areas of the disease of sheep known as scrapie and establishing a quarantine because of said disease, is herby deleted.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791, as amended, secs. 1, 3, 33 Stat. 1264, as amended; 21 U.S.C. 111–113, 120, 121, 123, 125. Interpret or apply secs. 6, 7, 23 Stat. 32, as amended, secs. 2, 4, 33 Stat. 1264, as amended; 21 U.S.C. 115, 117, 124, 126; 19 F.R. 74, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment removes from quarantine all areas in La Salle County in Illinois and Crawford County in Ohio, previously quarantined because of scrapie. Hereafter, the restrictions pertaining to the interstate movement of sheep because of scrapie from quarantined areas, contained in 9 CFR Part 79, as amended, are no longer applicable.

The amendment relieves certain restrictions presently imposed and should be made effective immediately to be of maximum benefit to persons subject to the restrictions which are being relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and the amendment may be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 4th day of September 1959.

M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 59-7573; Filed, Sept. 10, 1959; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Reg. Docket No. 113; Amdt. 20-10; Supp. 10]

PART 20—PILOT AND INSTRUCTOR CERTIFICATES

Notation of Physical Deficiences and Issuance of Waivers

Part 29 of the Civil Air Regulations (14 CFR Part 29) is being amended to, among other things, revise § 29.5 relating to issuance of medical certificates to applicants with certain medical deficiencies. As revised, the section does not provide for limited medical certificates or waivers. This makes unnecessary the provision of § 20.10(c) referring to the notation of physical deficiencies on medical certificates and of § 20.10–2, relating to issuance of waivers as provided by § 29.5.

Public notice of the substantive changes proposed in Part 29 was given in Draft Release 59–1 (24 F.R. 2257). Since this amendment to Part 20 is only procedural, clarifying and minor in nature and imposes no additional burden on any person notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 20 of the Civil Air Regulations (14 CFR Part 20) is hereby amended as follows:

1. By amending paragraph (c) of § 20.10 by deleting the phrase "entered on his medical certificate."

2. By deleting § 20.10–2.

(Secs. 313(a), 601, 602, 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1422)

This amendment shall become effective on October 15, 1959.

Issued in Washington, D.C., on September 4, 1959.

JAMES T. TYLER,
Acting Administrator.

[F.R. Doc. 59-7543; Filed, Sept. 10, 1959; 8:45 a.m.]

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

CODIFICATION GUIDE—Con.

[Reg. Docket No. 112; Amdt. 29-2]

PART 29—PHYSICAL STANDARDS FOR AIRMEN; MEDICAL CERTIFICATES

Amendment of Medical Standards

Notice was given in Draft Release No. 59-1 (24 F.R. 2257) that the Administrator proposed to amend Part 29 of the Civil Air Regulations primarily by amending the medical requirements in §§ 29.2 (c) (1) and (d), 29.3(c) and (d), and 29.4 (c) and (d) to provide additional specific standards relating to general physical condition and the nervous system.

As pointed out in the draft release, the Congress of the United States appropriated funds in 1956 to provide for an objective evaluation of current medical standards and their administration in light of the ever-increasing activity in the field of civil aviation. To accomplish this purpose, a contract was entered into between the Civil Aeronautics Administration and the Flight Safety Foundation, Inc., a non-profit organization, of New York City. Upon completion of its study, the Foundation made two final reports and a supplement. Report No. 2 (March 31, 1958) deals with the medical aspects of civil aviation. This report makes recommendations as to changes in medical standards in several areas. Of these recommendations, the most important deal with three medical areas:

(1) Individuals with an established diagnosis of diabetes requiring insulin or other hypoglycemic agents for treatment;

(2) Individuals with a history of myocardial infarction or other evidence of coronary artery disease; and

(3) Individuals with a history of an established diagnosis of psychosis, severe psychoneurosis, severe personality abnormality, epilepsy, chronic alcoholism or drug addiction.

The Foundation recommends, in effect, that existence of any of the conditions in these three categories is an appropriate basis for disqualification for any class of medical certificate. This recommendation is based on the medical fact that none of these three conditions can be so precisely studied in the individual as to provide assurance that they will not interfere with the safe piloting of aircraft. In reality, the likelihood of occurrence of partially or totally incapacitating states directly attributable to these conditions is so great, and the ability to provide acceptable medical assurance of non-occurrence of such states in any given individual is so inadequate, that these conditions existing in airmen constitute a definite hazard to safety in flight.

The recommendations of the Foundation were made on the basis of consideration of these conditions by leading professional groups and individuals in appropriate medical specialties. Additionally, other professional groups were asked to comment on the Foundation's recommendations and the proposed amendments. The comments reflected concurrence with the recommendations and agreement with the principles expressed therein, as more fully discussed hereinafter.

The Administrator agrees with these recommendations and on the basis of expert medical opinion believes that they are well founded in medical fact.

The following discussions abstracted from the draft release indicate the underlying medical reasons leading up to the conclusions that the conditions described should be disqualifying.

Diabetes Mellitus

The following statement was prepared by a panel of specialists in the fields of diabetes and aviation medicine called by the Flight Safety Foundation in November 1957. The panel included members of the American Medical Association, the American Diabetes Association, the Office of the Surgeon General of the Air Force, the Medical Director of a large scheduled air carrier, and the Medical Division of the former Civil Aeronautics Administration.

> Any individual who takes insulin, Orinase, or any other hypoglycemic drug, is subject to a decrease in concentration of sugar in the circulating blood. When the concentration of sugar falls below an average level of 70 mg. in each 100 cc's, a chain of reactions is set up. These involve the sympathetic nervous system, the parasympathetic nervous system and the central nervous system.
>
> For the purposes of flight safety, we are interested, mainly, in the effects on the central nervous system. These range from loss of reasoning power, euphoria alternating with depression, blurred vision, and double vision, loss of memory, convulsions, and, ultimately, if not treated, complete unconsciousness. The severe manifestations are easily recognized and, by themselves, in the ground crew, can be detected before damage is done. In-flight personnel, of course, may go into unconsciousness without detection. What is most important, however, are the early, almost undetectable, changes that occur while the blood sugar concentration is decreasing. These are the changes manifested by the personality alterations, lapses in memory, and lack of ability to coordinate muscular activity, and loss of reasoning power, muscular tremors and double vision—the subject, himself, may fail to recognize this onset.
>
> Diabetes, per se, does not alter the various nervous systems of the body; hence, that type of diabetes which is amenable to proper treatment without the use of hypoglycemic agents, does not render a man incapable of flight via aeroplane.

Coronary Heart Disease

Coronary heart disease was considered by a panel of specialists in heart disease called by the Flight Safety Foundation in November 1957. The panel included members of major medical institutions, industrial organizations, a major scheduled airline's medical department, the American Medical Association, the Office of the Surgeon General of the Air Force, and the Medical Division of the former Civil Aeronautics Administration. The panel found that myocardial infarction (and coronary artery disease) is the most serious problem among cardiac conditions because of its frequency and the sudden incapacitation related to it. The panel recommended "That anyone who has suffered a myocardial infarction or has angina pectoris or other evidence of coronary insufficiency which may reasonably be expected to lead to myocardial infarction, should not be certified to pilot or co-pilot an aircraft."

The generalized processes of arteriosclerosis or atherosclerosis are the usual causes of myocardial infarction. These processes are rarely limited to a single location. Although medical knowledge has progressed substantially in the field of control of these diseases there is insufficient data at this time to insure positive control or cure. Therefore, it must be considered that these diseases are progressive and irreversible in nature and a person who has suffered one infarction and survived may reasonably be expected to suffer further attacks.

History of Psychosis or Severe Psychoneurosis, Severe Personality Abnormality, Epilepsy, Chronic Alcoholism or Drug Addiction

The Flight Safety Foundation developed recommendations for specific standards in the area of mental disturbances by consulting individually with recognized psychiatrists who were familiar with the requirements of aviation. The Foundation's report states:

> The most common psychiatric [psychotic] disorders encountered are (1) schizophrenia and (2) affective disorders (depressive states). In a high percentage of cases, schizophrenic reactions tend to recur while tendency of the depressive state to recur after remission is less. The precipitating factor in a recurrence cannot be predicted, neither can the time of recurrence. Anyone with a history of schizophrenia definitely is dangerous and should not be certified as an airman.

The report classifies these psychiatric disorders into the following broad categories and recommends them as the basic policy for denial of medical certification:

1. Pyschotic disorders.
2. Psychiatric disorders with demonstrable physical or toxic etiology or associated structural changes in the brain.
3. Psychoneurotic disorders (severe).
4. History of attempted suicide.
5. Personality pattern disturbance.
6. Mental deficiency and moronic states.
7. Any other psychiatric abnormality which in the opinion of the medical examiner would be likely to render the airman unable to perform safely the duties and exercise the privileges of the grade of airman certificate held or sought.

In addition to the purely mental disorders, epilepsy and certain other disturbances of consciousness including those due to unexplained causes were

considered as disqualifying by all of the groups consulted.

Psychotic disorders include schizophrenia, paranoia, involutional melancholia, and the manic and psychotic depressive states. The hazard to safety in aviation from individuals with histories of psychosis lies in the unpredictability of recurrences of acute phases of these disorders. In most cases of acute psychotic behavior the individual's judgment is impaired to such an extent that he may not properly evaluate himself or his behavior in terms of his environment. He thus may be unaware of the onset of an acute episode, or totally oblivious of the fact that his behavior has become so erratic as to create danger to himself or others. An individual who has passed through an acute episode may progress to a state of remission for a period of uncertain duration, during which behavior is sufficiently stable to permit the individual to make a reasonable adjustment to society. Major behavior defects attributable to the basic disease may, however, continue to exist in a form which would be undesirable and unsafe in an airman. On the other hand, there are some whose compensation is sufficient to preclude discovery of the latent defect even under examination by skilled clinicians. The circumstance or combination of circumstances which may constitute the precipitating factor in another acute episode cannot be adequately predicted by any means now available to medical science. Under these circumstances, granting certification to individuals so afflicted would be hazardous.

These reasons apply also to severe psychoneurosis which includes anxiety, dissociative, conversion, obsessive-compulsive, and psychosomatic reactions. The problem is, in addition, serious from the standpoint of aviation because of the individual's lack of ability to adjust appropriately to his environment. He may be properly oriented as to person, time and place, but he may react in a wholly unreasonable fashion to environmental stimuli. Thus, his reaction may be so inappropriate, inadequate or unreasonable as to interfere with the safe performance of his duties as an airman.

Persons with personality pattern disturbances suffer from severe personality abnormalities, in the clinical sense. Such disturbances are classified by the Foundation to include pathological personalities, immaturity reactions, chronic alcoholism and drug addiction. The manifestations of chronic alcoholism and drug addiction are apparent and require no further explanation of their disqualifying nature.

Pathological personalities and persons with immaturity reactions suffer from defects in the development or structure of the personality and in the pattern of behavior. Medically, such defects are termed "character and behavior disorders" and ordinarily are not subject to eradication by treatment. One type of these disorders is further characterized by persistent non-conformity with respect to the accepted ethical, moral or social codes of behavior, usually resulting in abnormal conflict with other persons; groups of persons or disciplinary and regulatory systems. Where there has been repeated evidence of such nonconformity, persons suffering from these disorders are not considered capable of functioning adequately under the controls necessary for the safe performance of airman duties.

The amended standards therefore disqualify such persons when the existence of the character or behavior disorder has been determined by established medical history or clinical diagnosis and, in addition, it has repeatedly manifested itself in non-conformity to the accepted ethical, moral or social codes of behavior.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Some one hundred comments were received and due consideration has been given to all relevant matter presented. A large number of the comments objected simply to the proposal to delete § 29.5, which provides for the issuance of limited medical certificates. The majority of the balance of the comments were favorable to the proposals.

A number of unfavorable comments objected primarily to the proposed standard concerning defects which "could" render an applicant unable to discharge his duties as an airman; to the discretionary authority of the Civil Air Surgeon without specification of the standards applicable to the exercise of such discretion; and to the absolute disqualification of applicants suffering from the physical and nervous ailments enumerated in the proposal.

The changes from the proposed draft being incorporated in this amendment are believed to be responsive to the substance of the comments received except for those relating to the deficiencies which are absolutely disqualifying. As to these deficiencies, analysis of all the comments reveals that the objections made were not addressed so much to the medical conditions themselves as to the lack of opportunity for individual evaluation of each applicant suffering from such a condition. Essentially, then, the remaining major point in issue is whether these medical deficiencies should constitute an absolute disqualification.

Great weight was given to the comments received from doctors and medical associations. The majority of individual doctors indicated their approval of the proposed standards. The comments received from the various medical associations warrant individual reference. The American Psychiatric Association forwarded the recommendation of its committee on National Defense supporting the proposals relating to their specialty, but recommending sufficient flexibility to give individual consideration in this area to each applicant for a medical certificate. The Office of the Surgeon General, Public Health Service, Department of Health, Education and Welfare, supports the proposals, particularly with reference to diabetes mellitus and coronary heart disease, but recommends that some procedure be provided for individual consideration with respect to diseases of the nervous system.

The proposals received strong support from the Aerospace Medical Association; the Surgeon General, United States Air Force; Physical Standards, Professional Division, Office of the Surgeon General, United States Army; the Committee on Aviation Medicine, American Medical Association; the Civil Aviation Medical Association; the American Heart Association, Inc.; the American Diabetes Association, Inc.; and the Committee of Traffic Safety, Oregon State Medical Society.

Two comments included requests for a public hearing and a third recommended this procedure. It is the opinion of the Administrator that the changes being incorporated in this amendment eliminate, to the greatest practicable degree consistent with safety, all the features of the proposal to which objection was expressed. In addition, in evaluating the comments received, with particular reference to the professional knowledge represented by the comments, it is the Administrator's opinion that they give overwhelming and authoritative support to the medical standards being adopted in this amendment. It does not appear, therefore, that a public hearing would serve any useful purpose and the Administrator does not deem such a hearing to be necessary in the public interest.

A letter of comment was received from the Civil Aeronautics Board, with two of the five members not concurring. The letter summarizes an analysis of aviation accidents for the years 1950–1958 and concludes:

> While the Board recognizes that more definitive physical standards may be desirable for administrative and other reasons, we have not found on the basis of accident investigations that they are dictated by urgent safety considerations.

In this connection, it should be pointed out that it has for years been the known policy of the Medical Division of the former Civil Aeronautics Administration that the deficiencies specified in this amendment render an applicant unable to perform safely as an airman and that medical certificates should not be issued in such cases. Accordingly, the number of certificates issued in such cases in the period covered by the Board's analysis are few and were issued only upon order of the Board after appeals by the applicants. Therefore, the very absence of evidence that any of the accidents were caused by the subject medical deficiencies is consistent with the position that the policy is effective and that it should be incorporated in Part 29.

The Board also objects to substitution of the word "could" for the words "would be likely to" in paragraphs (c) and (d) of §§ 29.2, 29.3 and 29.4. This is considered in connection with the changes from the proposed draft being incorporated in the amendment.

One change involves the proposed standard of disqualification based upon conditions which "could" render an applicant "unable to safely perform the duties and exercise the privileges of the grade and type of airman certificate held or sought." Various comments received pointed out that the word "could" might

be read to disqualify an applicant when the condition might not be disabling at the time of examination but could at any unspecified future time, however remote, become disabling. Further, comments were made that even the most minor defect "could" be considered as disabling under special circumstances, however peculiar or unlikely. It was never intended that the language be read in this way, or administered to reach such a result, and the amendment now includes specific standards in this connection.

The standard of ability to perform the duties or to exercise the privileges of an airman safely has been retained as a necessary measure of the significance of the disability. To eliminate the possibility of considering minor deficiencies as disabling under this standard, the standard is now limited to such deficiencies which are or may reasonably be expected to result in a condition which would in fact be disabling for safe flying. The Civil Air Surgeon is charged with the duty of finding whether such a condition exists or may result, but his finding may be made only on the basis of professionally qualified medical judgment and only in relation to the individual's specific case history and medical knowledge related to the condition involved. Further, to eliminate consideration of the remote future, the findings as to other than present disability must be limited to the two-year period from date of such finding.

The reason that the two-year period is used for all three classes of medical certificates is that the Civil Air Regulations permit first class and second class medical certificates to be utilized for two years for flying requiring only a private pilot certificate even though the shorter periods for which they are valid for flying requiring an airline transport rating or commercial pilot certificate may have expired. Establishment of the two-year period as a limitation on the findings required to be made by the Civil Air Surgeon would not preclude issuance of a medical certificate under § 29.5 valid for a shorter period under appropriate circumstances and upon such conditions as may be considered necessary for safety.

Another change from the published draft eliminates as a basis for disqualification disturabnces of consciousness which are due to "causes other than an isolated episode associated with acute injury." The reason for this is that isolated disturbances of consciousness which should not be a basis for disqualification may result from various causes other than those associated with acute injury. Where the causes of disturbances of consciousness are known a medical evaluation can then be made to determine whether the causes are related to or establish a disqualification under any of the other standards provided.

Finally, the majority of the adverse comments received objected to the proposed deletion of § 29.5, which provides for issuance of limited medical certificates. The comments indicate that the nature and purpose of the proposed deletion may have been misunderstood.

Sections 20.10(c), 20.10–2 and 406.12 (a)(4), (b)(4), and (c)(4) provide appropriate procedures for individual consideration of applicants. It was not intended to eliminate these procedures. In addition, § 601(c) of the Federal Aviation Act of 1958 now provides for the granting of exemptions by the Administrator, and this has already been implemented by the procedures in Part 405 of the regulations. It should also be noted that application of the standard of ability to perform safely, in connection with organic, functional or structural diseases, defects or limitations, other than those specifically enumerated in the proposal as disqualifying, would necessarily require consideration of compensating factors which would have been considered under § 29.5.

However, because of the possible misunderstanding and for simplicity, it has been concluded not to delete § 29.5 but to revise it and to incorporate various appropriate provisions. In doing this the procedures provided by §§ 20.10–2 and 406.12(a)(4), (b)(4), and (c)(4) become unnecessary and those sections will be deleted simultaneously.

Section 29.5 as now revised is applicable to medical conditions other than those specifically enumerated in this amendment as being absolutely disqualifying.

In consideration of the foregoing, Part 29 of the Civil Air Regulations (14 CFR Part 29) is hereby amended as follows:

1. By amending § 29.1 to read as follows:

§ 29.1 Issuance of medical certificates.

A medical certificate of the appropriate class will be issued to an applicant if the Administrator or his authorized representative finds that the applicant meets the medical standards prescribed in this part. Such finding will be based upon medical examination and evaluation of the applicant's history and condition.

2. In § 29.2, by redesignating paragraph (c) (2) and (3) as paragraph (c) (3) and (4) respectively, by amending paragraph (c)(1), by adding a new subparagraph (2) to paragraph (c), and by amending paragraph (d). The amended portions should read as follows:

§ 29.2 First class.

* * * * *

(c) *General medical condition.* (1) An established medical history or clinical diagnosis of the following conditions shall be disqualifying: (i) Diabetes mellitus which requires insulin or other hypoglycemic drug for control, (ii) myocardial infarction, or (iii) angina pectoris or other evidence of coronary heart disease which the Civil Air Surgeon finds may reasonably be expected to lead to myocardial infarction.

(2) An applicant shall be disqualified if he has any other organic, functional or structural disease, defect or limitation which the Civil Air Surgeon finds either (i) renders the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought, or (ii) may reasonably be expected to result within two years from such finding in a condition which would render the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought. Such findings will be based on the case history and appropriate professionally qualified medical judgment related to the condition involved.

* * * * *

(d) *Nervous system.* (1) An established medical history or clinical diagnosis of the following conditions shall be disqualifying: (i) A character or behavior disorder which is sufficiently severe to have repeatedly manifested itself by overt acts, (ii) a psychotic disorder, (iii) chronic alcoholism, (iv) drug addiction, (v) epilepsy, or (vi) a disturbance of consciousness without satisfactory medical explanation of the cause.

(2) An applicant shall be disqualified if he has any other disease of the nervous system, mental abnormality, or psychoneurotic disorder which the Civil Air Surgeon finds either (i) renders the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought, or (ii) may reasonably be expected to result within two years from such finding in a condition which would render the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought. Such findings will be based on the case history and appropriate professionally qualified medical judgment related to the condition involved.

3. By amending paragraphs (c) and (d) of § 29.3 to read as follows:

§ 29.3 Second class.

* * * * *

(c) *General medical condition.* (1) An established medical history or clinical diagnosis of the following conditions shall be disqualifying: (i) Diabetes mellitus which requires insulin or other hypoglycemic drug for control, (ii) myocardial infarction, or (iii) angina pectoris or other evidence of coronary heart disease which the Civil Air Surgeon finds may reasonably be expected to lead to myocardial infarction.

(2) An applicant shall be disqualified if he has any other organic, functional or structural disease, defect or limitation which the Civil Air Surgeon finds either (i) renders the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought, or (ii) may reasonably be expected to result within two years from such finding in a condition which would render the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought. Such findings will be based on the case history and appropriate professionally qualified medical judgment related to the condition involved.

(d) *Nervous system.* (1) An established medical history or clinical diagnosis of the following conditions shall be disqualifying (i) A character or behavior disorder which is sufficiently severe to have repeatedly manifested it-

self by overt acts, (ii) a psychotic disorder, (iii) chronic alcoholism, (iv) drug addiction, (v) epilepsy, or (vi) a disturbance of consciousness without satisfactory medical explanation of the cause.

(2) An applicant shall be disqualified if he has any other disease of the nervous system, mental abnormality, or psychoneurotic disorder which the Civil Air Surgeon finds either (i) renders the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought, or (ii) may reasonably be expected to result within two years from such finding in a condition which would render the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought. Such findings will be based on the case history and appropriate professionally qualified medical judgment related to the condition involved.

4. By amending paragraphs (c) and (d) of § 29.4 to read as follows:

§ 29.4 Third class.

* * * * *

(c) *General medical condition.* (1) An established medical history or clinical diagnosis of the following conditions shall be disqualifying: (i) Diabetes mellitus which requires insulin or other hypoglycemic drug for control, (ii) myocardial infarction, or (iii) angina pectoris or other evidence of coronary heart disease which the Civil Air Surgeon finds may reasonably be expected to lead to myocardial infarction.

(2) An applicant shall be disqualified if he has any other organic, functional or structural disease, defect or limitation which the Civil Air Surgeon finds either (i) renders the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought, or (ii) may reasonably be expected to result within two years from such finding in a condition which would render the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought. Such findings will be based on the case history and appropriate professionally qualified medical judgment related to the condition involved.

(d) *Nervous system.* (1) An established medical history or clinical diagnosis of the following conditions shall be disqualifying: (i) A character or behavior disorder which is sufficiently severe to have repeatedly manifested itself by overt acts, (ii) a psychotic disorder, (iii) chronic alcoholism, (iv) drug addiction, (v) epilepsy, or (vi) a disturbance of consciousness without satisfactory medical explanation of the cause.

(2) An applicant shall be disqualified if he has any other disease of the nervous system, mental abnormality, or psychoneurotic disorder which the Civil Air Surgeon finds either (i) renders the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought, or (ii) may reasonably be expected to result within two years from such finding in a condition which would render the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought. Such findings will be based on the case history and appropriate professionally qualified medical judgment related to the condition involved.

5. By amending § 29.5 to read as follows:

§ 29.5 Medical deficiencies.

At the discretion of the Civil Air Surgeon, a medical certificate of the appropriate class may be issued to an applicant who does not meet the medical standards in this part, except an applicant who is disqualified under the respective paragraphs (c) (1) and (d) (1) of §§ 29.2, 29.3 and 29.4, if the applicant demonstrates to the satisfaction of the Civil Air Surgeon by operational experience, special practical or flight testing or as may otherwise be required, that he can carry out the airman duties appropriate to the airman certificate held, applied for or issued in a manner which would not endanger safety in air commerce during the period of validity of such medical certificate. The need for any operational limitations or limitation on the duration of the medical certificate designed to achieve safety will be determined by the Civil Air Surgeon and will be specified on the respective airman or medical certificate held or issued. An applicant who has taken a practical or flight test for issuance of a medical certificate under this section shall not be required to retake such practical or flight test during subsequent physical examinations, unless, in the opinion of the Civil Air Surgeon, the individual's physical deficiency has become sufficiently more pronounced to require such additional tests.

(Secs. 313(a), 601, 602, 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1422)

This amendment shall become effective on October 15, 1959.

Issued in Washington, D.C. on September 4, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-7542; Filed, Sept. 10, 1959; 8:45 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER A—PROCEDURAL REGULATIONS

[Reg. Docket No. 114; Amdt. 406-12]

PART 406—CERTIFICATION PROCEDURES

Subpart B—Issuance of Certificates

Part 29 of the Civil Air Regulations (14 CFR Part 29) is being amended to, among other things, revise § 29.5 relating to issuance of medical certificates to applicants with certain medical deficiencies. This makes unnecessary the provisions of paragraphs (a) (4), (b) (4) and (c) (4) of § 406.12, which provide procedures for issuance of waivers.

Public notice of the substantive changes proposed in Part 29 was given in Daft Release 59-1 (24 F.R. 2257). Since this amendment to Part 406 is only procedural, clarifying and minor in nature and imposes no additional burden on any person notice and public procedure hereon are unnecessary.

In consideration of the foregoing, § 406.12 of Part 406 (14 CFR Part 406) is hereby amended by deleting paragraphs (a) (4), (b) (4) and (c) (4).

(Secs. 313(a), 601, 602, 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1422)

This amendment shall become effective on October 15, 1959.

Issued in Washington, D.C. on September 4, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-7544; Filed, Sept. 10, 1959; 8:46 a.m.]

[Airspace Docket No. 59-LA-20]

[Amdt. 18]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification and Revocation

[Amdt. 24]

PART 608—RESTRICTED AREAS

The purpose of these actions is to revoke the Coulee Dam, Washington, restricted area (R-248) and to delete all reference to this restricted area from the description of the Ephrata, Wash., control area extension.

The U.S. Air Force no longer has a requirement for this restricted area, and has requested that it be revoked.

The portion of the Ephrata, Wash., control area extension which would otherwise lie within this restricted area is presently excluded. Since this exclusion will no longer be necessary after the restricted area is revoked, Part 601 is being amended concurrently by deleting all reference to the Coulee Dam restricted area (R-248), from the description of the Ephrata, Wash., control area extension.

Since these amendments eliminate a burden on the public, compliance with the notice, public procedure, and effective date requirements of section 4 of the administrative Procedure Act is unnecessary.

In consideration of the foregoing, the following action is taken:

1. Section 601.1433 (14 CFR, 1958 Supp. 601.1433) is amended to read:

§ 601.1433 Control area extension (Ephrata, Wash.).

The airspace north of VOR Federal Airway No. 2 within a 25-mile radius of the Ephrata, Wash., VOR.

§ 608.55 [Amendment]

2. In § 608.55 the Coulee Dam, Wash., restricted area (R-248) (Seattle, Spokane and Kootenai Charts) (23 F.R. 8589, 24 F.R. 3876) is revoked.

(Secs. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

These amendments shall become effective upon the date of publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on September 4, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-7541; Filed, Sept. 10, 1959; 8:45 a.m.]

[Airspace Docket No. 59-LA-21]

[Amdt. 23]

PART 608—RESTRICTED AREAS

Revocation

The purpose of this action is to revoke the Guadalupe Mountains, New Mexico, restricted area (R-212).

The U.S. Air Force no longer has a requirement for this restricted area, and has requested that it be revoked.

Since this amendment eliminates a burden on the public, compliance with the notice, public procedure, and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, the following action is taken:

In § 608.39 the Guadalupe Mountains, N. Mex., restricted area (R-212) (Roswell Chart) (23 F.R. 8584, 24 F.R. 3231) is revoked.

(Secs. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on September 4, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-7540; Filed, Sept. 10, 1959; 8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Beneficial Ownership of Securities

On July 21, 1959, the Securities and Exchange Commission published notice that it had under consideration the adoption of a rule under the Investment Company Act of 1940 which would except small business investment companies from the registration and other requirements of the Act if certain conditions are met, and invited all interested persons to comment upon the proposal. The Commission has considered the comments received, all of which were favorable, and has determined to adopt such a rule in the form set forth below.

Section 3(c)(1) of the Act excepts from its operation any issuer which is not making and does not propose to make a public offering of its securities and whose outstanding securities are beneficially owned by not more than one hundred persons and further provides that beneficial ownership by a company shall be deemed beneficial ownership by one person, with the exception that if such company owns 10 per centum or more of the outstanding voting securities of the issuer, the beneficial ownership of the issuer shall be deemed to be that of the holders of such company's outstanding securities.

The rule adopted provides that for the purpose of section 3(c)(1) of the Act, beneficial ownership by a company owning 10 per centum or more of the outstanding voting securities of a small business investment company licensed or proposed to be licensed under the Small Business Investment Act of 1958 shall be deemed to be beneficial ownership by one person notwithstanding that such company owning such securities has more than one stockholder, if the value of all securities of small business investment companies owned by such company does not exceed 5 percent of the value of its total assets. The rule also would deem beneficial ownership by a company to be beneficial ownership by one person if the owner is a state-wide development corporation created by or pursuant to an act of a State legislature to promote and assist growth and development of the economy of the State, provided that such State development corporation itself is not, or would not become as a result of its investment, an investment company. These latter provisions were not a part of the proposed rule as set forth in the notice issued on July 21, 1959, and the Commission determined to enlarge the rule in these respects following consideration of the comments received.

The rule will, in the Commission's view, tend to effectuate the purposes and objectives of the Small Business Investment Act and in view of the limited public investor interest under the prescribed conditions, as well as the policy expressed in section 2(b) of the Act, is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Investment Company Act of 1940. This action is taken pursuant to the provisions of sections 6(c) and 38(a) of the Investment Company Act of 1940. The text of the rule follows:

§ 270.3c-2 Definition of beneficial ownership.

For the purpose of section 3(c)(1) of the Act, beneficial ownership by a company, other than a registered investment company, owning 10 per centum or more of the outstanding voting securities of any issuer which is a small business investment company licensed to operate under the Small Business Investment Act of 1958, or which has received from the Small Business Administration notice to proceed to qualify for a license, which notice or license has not been revoked, shall be deemed to be beneficial ownership by one person (a) if and so long as the value of all securities of small business investment companies owned by such company does not exceed 5 per centum of the value of its total assets; or (b) if and so long as such stock of the small business investment company shall be owned by a state development corporation which has been created by or pursuant to an act of the state legislature to promote and assist the growth and development of the economy within such state on a state-wide basis provided that, such state development corporation is not, or as a result of its investment in the small business investment company (considering such investment as an investment security) would not be, an investment company as defined in section 3 of the Act.

(Sec. 38, 54 Stat. 841; 15 U.S.C. 80a-37)

Effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

SEPTEMBER 3, 1959.

[F.R. Doc. 59-7563; Filed, Sept. 10, 1959; 8:48 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 6412]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Returns and Payment of Tax (Consolidated Returns)

On July 21, 1959, notice of proposed rule making was published in the FEDERAL REGISTER (24 F.R. 5803) regarding an amendment of the Income Tax Regulations (26 CFR Part 1) under subchapter A, returns and payment of tax (Consolidated Returns), and subchapter B, related rules, of chapter 6 of the Internal Revenue Code of 1954. After consideration of all such relevant matter as was presented by interested persons regarding the proposed rules, the regulations as so proposed are hereby adopted for taxable years beginning after December 31, 1953, and ending after August 16, 1954, except where otherwise provided, subject to the following changes:

PARAGRAPH 1. Paragraph (h)(1)(i) of § 1.1502-13 is revised.

PAR. 2. Section 1.1502-31 is revised—

(A) By amending the next to the last sentence of paragraph (a)(4)(i).

(B) By amending paragraph (a)(23)(iii).

PAR. 3. Paragraphs (a) and (b) of § 1.1502-43 are revised.

PAR. 4. Section 1.1504 is amended.
PAR. 5. Section 1.1551 is amended.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: SEPTEMBER 9, 1959.

FRED C. SCRIBNER, JR.
Acting Secretary of the Treasury.

PARAGRAPH 1. Paragraph (b) of § 1.1502–2 is amended to read as follows:

§ 1.1502–2 Definitions.

* * * * *

(b) *Affiliated group.* (1) * * *

(vi) A regulated investment company subject to tax under subchapter M of chapter 1;

(vii) An unincorporated business enterprise subject to tax as a corporation under section 1361; and

(viii) An electing small business corporation as defined in section 1371(b).

* * * * *

PAR. 2. Paragraph (h) of § 1.1502–13 is amended to read as follows:

§ 1.1502–13 Change in affiliated group during taxable year.

* * * * *

(h) *Time for making separate returns for periods not included in consolidated return.* (1) (i) If the due date for filing a subsidiary's separate return (determined without regard to the affiliation and without regard to extensions of time) precedes the due date for filing the consolidated return of the affiliated group (determined without regard to extensions of time), then, on or before the due date of the subsidiary's separate return, it may make a separate return either for that portion of its taxable year which would not be included in the consolidated return, if such return is filed, or for its complete taxable year. However, if a separate return is filed for only a portion of its taxable year and the group does not elect to make a consolidated return, such subsidiary shall file a return for its complete taxable year not later than the due date (including extensions of time) prescribed for the filing of the consolidated return by the group. There shall be attached to the return for the complete taxable year a statement setting forth that such return is in lieu of the return previously filed. In such case the return previously filed for only a portion of its taxable year shall not be considered a return within the meaning of section 6012. On the other hand, if a return is filed for the subsidiary's complete taxable year and the group later makes a consolidated return, such subsidiary should file an amended return not later than the due date (including extensions of time) for the filing of the consolidated return of the group. Such amended return shall be for that portion of the taxable year which is not included in the consolidated return.

(ii) If the due date for filing a subsidiary's separate return (determined without regard to the affiliation and without regard to extensions of time) is later than the due date for filing the consolidated return of the affiliated group (determined without regard to extensions of time), then the separate return for that portion of the subsidiary's taxable year which is not included in the consolidated return of the group should be filed no later than the due date (including extensions of time) for the filing of the consolidated return.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). Corporation P, which reports its income on a calendar year basis, acquires all of the stock of Corporation S on January 1, 1959. Corporation S reports its income on a fiscal year ending March 31. On June 15, 1959, the due date for the filing of a separate return by Corporation S, it is anticipated that Corporation P will elect, on the due date of its return, to file a consolidated return for 1959. On June 15, Corporation S may file either a return for a short taxable year beginning April 1, 1958, and ending December 31, 1958, or it may file a return for the complete fiscal year ending March 31, 1959. If it files a return for the short taxable year and Corporation P does not elect to file a consolidated return, corporation S must file a return for the complete fiscal year ending March 31, 1959, in lieu of the return previously filed for the short period. Interest is computed on any additional tax from June 15, 1959.

Example (2). Assume the same facts as in example (1) except that Corporation P acquires all of the stock of Corporation S on October 1, 1959, and that Corporation P elects to file a consolidated return on March 15, 1960, the due date of its return. The return of Corporation S for the short taxable year beginning April 1, 1959, and ending September 30, 1959, should be filed on March 15, 1960.

PAR. 3. Section 1.1502–14 is amended to read as follows:

§ 1.1502–14 Accounting period of an affiliated group.

(a) The taxable year of an affiliated group which makes a consolidated return shall be the same as the taxable year of the common parent corporation; and, except as provided in paragraph (c) of this section, upon having elected to file a consolidated return, each subsidiary corporation shall, not later than the close of the first consolidated taxable year ending thereafter, adopt an annual accounting period, fiscal year or calendar year as the case may be, in conformity with that of the common parent.

(b) If a change of accounting period is necessary in order to conform the accounting periods of the common parent and of its subsidiaries, Form 1128 shall be submitted at or before the time of filing the consolidated return for the taxable year in which the subsidiary has first adopted the parent corporation's annual accounting period.

(c) If the common parent corporation of an affiliated group has a fiscal year accounting period and any member of the group is an includible insurance company required by section 843 to file its return on a calendar year, the first consolidated return which includes such insurance company may be filed on the basis of the fiscal year accounting period of the common parent, provided, however, the common parent and the other includible corporations change to a calendar year basis effective immediately after the close of such fiscal year. For this purpose, Form 1128 shall be submitted at or before the time such first consolidated return is filed.

(d) With respect to computations for years involved in the change to the consolidated basis, see § 1.1502–32.

PAR. 4. Paragraphs (a), (b), and (d) of § 1.1502–31 are amended to read as follows:

§ 1.1502–31 Bases of tax computation.

* * * * *

(a) *Definitions* — (1) *Consolidated taxable income.* * * *

(i) * * *

(*b*) Any consolidated section 1231 net loss, relating to net losses from involuntary conversions subject to section 1231, and from sales or exchanges of property subject to section 1231,

* * * * * *

(*f*) Any consolidated section 175 deduction, but not in excess of 25 percent of the consolidated section 175 gross income,

(*g*) Any consolidated section 247 deduction, and

(*h*) Any consolidated section 582(c) net loss,

* * * * *

(4) *Consolidated net operating loss carrybacks.* (i) The consolidated net operating loss carrybacks to the taxable year with respect to net operating losses sustained in taxable years ending after December 31, 1957, shall consist of—

(*a*) The amount of the consolidated net operating loss, if any, for the first succeeding taxable year (to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the taxable year) reduced to the extent absorbed as a carryback, consolidated or separate, as the case may be, for the first two preceding taxable years;

(*b*) The amount of the consolidated net operating loss, if any, for the second succeeding taxable year (to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the taxable year) reduced to the extent absorbed as a carryback, consolidated or separate, as the case may be, for the first preceding taxable year;

(*c*) The amount of the consolidated net operating loss, if any, for the third succeeding taxable year (to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group),

and, with respect to a net operating loss sustained by a corporation which, for any of the three succeeding taxable years, files a separate return or joins in a consolidated return filed by another affiliated group, but subject to the limitations prescribed in paragraph (b)(3) of this section,

(*d*) The amount of the net operating loss, if any, sustained by such corporation, for the first succeeding taxable year, reduced to the extent absorbed by such corporation for either or both of the first two preceding taxable years, or,

if the income of such corporation is included in the consolidated return for either or both of the first two preceding taxable years, reduced to the extent absorbed by such consolidated return or returns;

(e) The amount of the net operating loss, if any, sustained by such corporation for the second succeeding taxable year, reduced to the extent absorbed by such corporation for the first preceding taxable year, or, if the income of such corporation is included in the consolidated return for the first preceding taxable year, reduced to the extent absorbed by such consolidated return; and

(f) The amount of the net operating loss, if any, sustained by such corporation for the third succeeding taxable year.

If the taxable year in which the net operating loss or consolidated net operating loss was sustained is a year beginning in 1957 and ending in 1958, the carryback is subject to section 172(i) or paragraph (b)(4)(v) of this section, respectively. See also paragraph (b)(21) of this section in any case in which a member of the group is an acquiring corporation in a transaction described in section 381(a), or any member of the group is subject to the limitations provided under section 382.

(ii) The consolidated net operating loss carrybacks to the taxable year with respect to net operating losses sustained in taxable years ending before January 1, 1958, shall consist of—

(a) The amount of the consolidated net operating loss, if any, for the first succeeding taxable year (to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the taxable year) reduced to the extent absorbed as a carryback, consolidated or separate, as the case may be, for the first preceding taxable year;

(b) The amount of the consolidated net operating loss, if any, for the second succeeding taxable year to the extent not attributable to those corporations making separate returns in the taxable year;

and, with respect to a net operating loss sustained by a corporation which, for either of the two succeeding taxable years, files a separate return or joins in a consolidated return filed by another affiliated group, but subject to the limitations prescribed in paragraph (b)(3) of this section,

(c) The amount of the net operating loss, if any, sustained by such corporation for the first succeeding taxable year reduced to the extent absorbed by such corporation for the first preceding taxable year or, if the income of such corporation is included in the consolidated return for the first preceding taxable year, reduced to the extent absorbed by such consolidated return; and

(d) The amount of the net operating loss, if any, sustained by such corporation for the second succeeding taxable year.

See, however, paragraph (b)(21) of this section in any case in which a member of the group is an acquiring corporation in a transaction described in section 381(a) or any member of the group is subject to the limitations provided in section 382.

(5) *Consolidated net operating loss.* * * *

(ii) The consolidated section 175 deduction, but not in excess of 25 percent of the consolidated section 175 gross income,

(iii) The consolidated section 1231 net loss,

(iv) The aggregate of the deductions of the several affiliated corporations under sections 243, 244, and 245 (computed without regard to the limitation contained in section 246(b)) and under section 247 (computed without regard to the limitation of subsection (a)(1)(B) of such section), and

(v) The consolidated section 582(c) net loss,

over the sum of—

(vi) The combined taxable income of the several affiliated corporations having taxable income, computed without regard to any deductions under section 242 (relating to partially tax-exempt interest), and

(vii) The consolidated net capital gain.

* * * * *

(8) *Consolidated charitable contribution carryovers.* The consolidated charitable contribution carryovers to the taxable year shall consist of—

(i) The excess, if any, of the amount of the consolidated charitable contribution deduction (computed without regard to any charitable contribution carryovers) for the two preceding taxable years over the limitation of subparagraph (1)(i)(c) of this paragraph for such years to the extent that the consolidated charitable contribution deduction for any such preceding year was not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group, for the taxable year reduced by—

(a) The amount absorbed as a carryover by the consolidated or separate taxable income for the intervening taxable year, and

(b) The increase in a consolidated or separate net operating loss carryover resulting from such excess,

and, with respect to any excess of charitable contributions over the applicable 5-percent limitation of a corporation in a taxable year for which a separate return was filed, or for which such corporation joined in a consolidated return filed by another affiliated group—

(ii) The amount of such excesses of such corporation for the two preceding taxable years reduced by:

(a) The amount absorbed as a carryover by the consolidated or separate taxable income for the intervening taxable year, and

(b) The increase in a consolidated or separate net operating loss carryover resulting from such excess.

(9) *Consolidated net capital gain.* The consolidated net capital gain shall be the excess of the sum of—

(i) The aggregate of the capital gains of the several affiliated corporations,

(ii) The consolidated section 1231 net gain, and

(iii) The consolidated section 582(c) net gain,

over the sum of—

(iv) The aggregate of the capital losses of such corporations, and

(v) The aggregate of the consolidated net capital loss carryovers to the taxable year.

* * * * *

(12) *Consolidated net capital loss.* * * *

(i) The aggregate of the capital gains of such corporations,

(ii) The consolidated section 1231 net gain, and

(iii) The consolidated section 582(c) net gain,

reduced in the case of an affiliated group including as members one or more corporations subject to the tax imposed by section 831, but only for the purpose of net capital loss carryover computations, by whichever of the following amounts is the lesser—

(iv) The combined additional capital loss deductions of such corporations authorized by section 832(c)(5), or

(v) The consolidated taxable income computed without regard to capital gains and losses and without regard to any deduction for partially tax-exempt interest provided by section 242.

* * * * *

(18) *Consolidated accumulated taxable income.* * * *

(ii) The consolidated charitable contribution deduction computed without regard to section 170(b)(2),

* * * * *

(19) *Consolidated accumulated earnings credit.* * * *

(i) In the case of an affiliated group which is not a mere holding or investment group, an amount equal to such part of the aggregate of the earnings and profits for the taxable year of the several members of the group as are retained for the reasonable needs of the business of the group, minus the deduction allowed by subparagraph (18)(iv) of this paragraph, but not less than the amount (if any) by which $100,000 ($60,000 if the taxable year begins before January 1, 1958) exceeds the aggregate of the accumulated earnings and profits of the several members of the group at the close of the preceding taxable year, or

(ii) In the case of an affiliated group which is a mere holding or investment group, the amount (if any) by which $100,000 (or $60,000 if the taxable year begins before January 1, 1958) exceeds the aggregate of the accumulated earnings and profits of the several members of the group at the close of the preceding taxable year.

* * * * *

(23) *Consolidated undistributed personal holding company income.* * * *

(ii) In lieu of the deduction provided by subparagraph (1)(i)(c) of this paragraph, the consolidated charitable contribution deduction computed without the application of section 170(b)(2) but

limited as provided in section 170(b)(1)(A) and (B) (except that the 10-percent and 20-percent limitations therein shall be applied with respect to the consolidated adjusted gross income);

(iii) The amount of the consolidated net operating loss for the preceding taxable year (computed without the deductions provided in part VIII (except section 248) of subchapter B if the current taxable year begins after December 31, 1957) to the extent not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group for the taxable year, and, with respect to a corporation which filed a separate return or joined in a consolidated return filed by another affiliated group for the preceding taxable year, the net operating loss of such corporation for such preceding taxable year (computed without the deductions provided in part VIII (except section 248) of subchapter B if the current taxable year begins after December 31, 1957) but not in excess of the portion of the consolidated personal holding company income attributable to such corporation for the taxable year;

* * * * *

(35) *Consolidated section 175 carryovers.* The consolidated section 175 carryovers to the taxable year shall consist of—

(i) The excess, if any, of the amount of the consolidated section 175 deductions over 25 percent of the consolidated section 175 gross income of preceding taxable years to the extent that such consolidated section 175 deduction for any preceding taxable year was not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the taxable year and was not absorbed as a carryover by the consolidated section 175 gross income for preceding taxable years

and, with respect to any excess of deductions under section 175 over the 25-percent limitation of section 175(b) of a corporation in a taxable year for which a separate return was filed or for which such corporation joined in a consolidated return filed by another affiliated group, but subject to the limitation prescribed in paragraph (b)(15) of this section.

* * * * *

(36) *Consolidated section 582(c) net loss.* The consolidated section 582(c) net loss shall be the excess of the aggregate of the losses of the character described in section 582(c) recognized in a taxable year beginning after December 31, 1953, by the several affiliated corporations which are banks over the aggregate of gains of the character described in section 582(c) recognized in such taxable year by the several affiliated corporations which are banks.

(37) *Consolidated section 582(c) net gain.* The consolidated section 582(c) net gain shall be the excess of the aggregate of the gains of the character described in section 582(c) recognized in a taxable year beginning after December 31, 1953, by the several affiliated corporations which are banks over the aggregate of the losses of the character described in section 582(c) recognized in such taxable year by the several affiliated corporations which are banks.

(b) *Computations.* * * *

(1) *Taxable income.* * * *

(iv) There shall be disregarded all gains and losses from involuntary conversions subject to section 1231, and from sales and exchanges of property subject to section 1231;

* * * * *

(xi) No deductions under sections 243, 244, 245, or 247 (relating to deductions with respect to dividends received and dividends paid) or under section 922 (relating to the special deduction for Western Hemisphere trade corporations), shall be taken into account;

(xii) No deductions under section 175 (relating to soil and water conservation expenditures) shall be taken into account by a member of an affiliated group to which the consolidated section 175 deduction is applicable; and

(xiii) In the case of a bank, for taxable years beginning after December 31, 1953, there shall be disregarded all gains and losses from sales and exchanges of property described in section 582(c).

* * * * *

(2) *Other computations on separate basis.* * * *

(iii) *Capital gains and losses.* * * *

(*c*) The net capital loss carryovers provided in section 1212,

(*d*) In the case of a corporation which became a member of the affiliated group subsequent to January 1, 1954, common parent corporation or subsidiary, as the case may be, capital losses to the extent disallowed pursuant to the provisions of subparagraph (9) of this paragraph, and

(*e*) In the case of a bank, for taxable years beginning after December 31, 1953, gains or losses from sales or exchanges of property described in section 582(c).

* * * * *

(viii) *Gains or losses under section 1231.* Gains and losses from involuntary conversions subject to section 1231, and from sales or exchanges of property subject to section 1231 shall be determined without regard to—

* * * * *

(3) *Limitations on net operating loss carryovers and carrybacks from separate return years.* In no case shall there be included in the consolidated net operating loss deduction for the taxable year as consolidated net operating loss carryovers under paragraph (a)(3)(ii) of this section (relating to the net operating losses sustained by a corporation in years for which separate returns were filed, or for which such corporation joined in a consolidated return filed by another affiliated group), and as consolidated net operating loss carrybacks under paragraphs (a)(4)(i) (*d*), (*e*) and (*f*), and (a)(4)(ii) (*c*) and (*d*) of this section (relating to a net operating loss sustained by a corporation which for any of the two or three succeeding taxable years, whichever is applicable, files a separate return or joins in a consolidated return filed by another affiliated group), an amount exceeding in the aggregate the taxable income of such corporation included in the computation of the consolidated taxable income for the taxable year decreased by its deductions under sections 243, 244, 245, 247, and 922, (and in the case of a member of an affiliated group to which the consolidated section 175 deduction is applicable, the section 175 deduction) increased by its separate net capital gain, and increased or decreased, as the case may be, with respect to its separate gains or losses from involuntary conversions subject to the provisions of section 1231, and from sales or exchanges of property subject to the provisions of section 1231. * * *

(4) *Law applicable to computations of net operating loss carryovers and carrybacks.* (i) * * *

(iii) (*a*) The consolidated net operating loss deduction for a taxable year beginning in 1953 and ending in 1954, shall be the sum of—

(*1*) That portion of the consolidated net operating loss deduction for such taxable year, computed as though paragraph (a)(2) of § 1.1502-31 applied to such taxable year, which the number of days in such taxable year after December 31, 1953, bears to the total number of days in such taxable year, and

(2) That portion of the consolidated net operating loss deduction for such taxable year, computed in accordance with paragraph (a)(2) of § 24.31 of Regulations 129 (26 CFR (1939) 24.31 (a)(2)), which the number of days in such taxable year before January 1, 1954, bears to the total number of days in such taxable year.

(*b*) The consolidated net income for any taxable year beginning in 1953 and ending in 1954 which is subtracted from the net operating loss for any other taxable year to determine the portion of such net operating loss which is a carryback or a carryover to a particular taxable year shall be determined in accordance with the principles of section 172(f)(4).

(iv) (*a*) The consolidated net operating loss deduction for a taxable year beginning after December 31, 1953, and ending before August 17, 1954, shall be computed as if the regulations under section 1502 apply to such taxable year.

(*b*) The consolidated net income for any taxable year beginning after December 31, 1953, and ending before August 17, 1954, which is subtracted from the consolidated net operating loss for any other taxable year to determine the portion of such net operating loss which is a carryback or a carryover to a particular taxable year shall be determined in accordance with section 172(g)(3).

(v) In the case of a consolidated net operating loss for a taxable year beginning in 1957 and ending in 1958, the amount of such consolidated net operating loss which shall be carried to the third preceding taxable year shall be the amount which bears the same ratio to such consolidated net operating loss as the number of days in the loss year after December 31, 1957, bears to the total number of days in such year. In determining the amount carried to any other taxable year, the amount absorbed for the third taxable year preceding the loss year shall not exceed the portion of the consolidated net operating loss which is

carried to the third preceding taxable year.

(vi) For purposes of section 141 of the Internal Revenue Code of 1939 and that part of the regulations promulgated thereunder which relate to subchapter D of chapter 1 of such Code, excess profits net income and consolidated section 433(a) excess profits net income shall be computed as if the regulations under section 1502 did not apply and as if such section and such regulations continued to apply to taxable years beginning after December 31, 1953.

* * * * *

(10) *Loss to group of investment in an affiliate.* * * *

(ii) The portion of any such loss otherwise allowable as a deduction for the taxable year which is disallowed pursuant to the provisions of subdivision (i) of this subparagraph shall be considered as a consolidated net operating loss to be taken into account as a consolidated carryback to the two preceding taxable years or, if the loss is sustained in a taxable year ending after December 31, 1957, the three preceding taxable years and as a consolidated carryover to the five succeeding taxable years, but in an amount not greater for any taxable year than the excess of the consolidated taxable income for such year, computed without regard to such carryover or carryback, as the case may be, over that portion of such consolidated taxable income so computed for such taxable year attributable to such other affiliate.

* * * * *

(15) *Limitation on section 175 carryovers from separate return years.* In no case shall there be included in the consolidated section 175 deductions for the taxable year as consolidated section 175 carryovers under paragraph (a) (35) (ii) of this section (relating to excess section 175 deductions of a corporation for years for which separate returns were filed or for which such corporation joined in a consolidated return filed by another affiliated group), an amount exceeding in the aggregate the amount by which 25 percent of the gross income of such corporation derived from farming included in the computation of the consolidated section 175 gross income for the taxable year exceeds the amount of the expenditures of such corporation of the taxable year deductible under section 175.

* * * * *

(d) *Net operating loss deduction, excess charitable contributions, excess section 175 deductions, and dividend carryover before or after consolidated return*—(1) *Net operating loss deduction.* The consolidated net operating loss of an affiliated group shall be used in computing the consolidated net operating loss deduction notwithstanding that one or more members of the group in the taxable year in which such loss originates make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year (or in the case of a carryback computation for a preceding taxable year), but only to the extent that such consolidated net operating loss is not attributable to such corporations. Such portion of such consolidated net operating loss as is attributable to the several corporations making separate returns (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year (or in the case of a carryback computation for a preceding taxable year) shall be used by such corporations severally as carryovers or as carrybacks in such separate returns or in such consolidated returns of the other affiliated group. Any net operating loss separately sustained by a corporation prior to a first taxable year in respect of which its income is included in the consolidated return of the group (or sustained in either of the two taxable years immediately following a consolidated return year or any of the three taxable years so following if sustained in a taxable year ending after December 31, 1957) shall be used in computing the net operating loss deduction of such corporation (or the consolidated net operating loss deduction of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such net operating loss was not absorbed (either as a carryover or as a carryback) in the computation of the consolidated net operating loss deduction for consolidated return periods.

(2) *Excess charitable contributions.* The excess of the consolidated charitable contributions over the 5 percent limitation of paragraph (a) (1) (i) (*c*) of this section shall be used in computing the consolidated charitable contribution carryover notwithstanding that one or more members of the group in the taxable year in which such carryover originates make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year, but only to the extent that such excess charitable contribution is not attributable to such corporations. Such portion of such excess charitable contributions as is attributable to the several corporations making separate returns (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year shall be used by such corporations severally as carryovers in such separate returns or in such consolidated returns of the other affiliated group. Any excess of charitable contributions of a corporation for the year prior to a first taxable year in respect of which its income is included in the consolidated return of the group shall be used in computing the charitable contribution deduction of such corporation (or the consolidated charitable contribution deduction of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such excess charitable contribution was not absorbed as a carryover in the consolidated charitable contribution deduction for consolidated return periods. In applying this paragraph, the excess of the consolidated charitable contributions over the 5 percent limitation shall be reduced by the increase in a consolidated or separate net operating loss carryover resulting from such excess.

(3) *Excess section 175 deductions.* The excess of the deductions under section 175 over the limitation of 25 percent provided in paragraph (a) (1) (i) (*f*) of this section shall be used in computing the consolidated section 175 carryover notwithstanding that one or more members of the group in the taxable year in which such carryover originates make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year, but only to the extent that such excess section 175 deduction is not attributable to such corporations. Such portion of such excess section 175 deductions as is attributable to the several corporations making separate returns (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year shall be used by such corporations severally as carryovers in such separate returns or in such consolidated returns of the other affiliated group. Any excess of section 175 deductions of a corporation for a year prior to a first taxable year in respect of which its income is included in the consolidated return of the group shall be used in computing the section 175 deduction of such corporation (or the consolidated section 175 deduction of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such excess section 175 deduction was not absorbed as a carryover in the computation of a consolidated section 175 deduction for consolidated return periods.

(4) *Unused consolidated dividend carryover.* The unused consolidated dividend carryover shall be used in computing the consolidated dividend carryover notwithstanding that one or more members of the group in the taxable year in which such carryover originates make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year, but only to the extent that such unused consolidated dividend carryover is not attributable to such corporations. Such portion of such unused consolidated dividend carryover as is attributable to the several corporations making separate returns or computing their tax liability under section 541 pursuant to the last sentence of paragraph (b) (4) of § 1.1502–30 (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year shall be used by such corporations severally as carryovers in such separate returns, in such separate computations under section 541, or in such consolidated returns of the other affiliated group. Any unused dividend carryover of a corporation separately produced for a year prior to a taxable year in respect of which its tax liability under section 541 is computed upon the consolidated undistributed personal holding company income shall be used in computing the dividend carryover of such corporation (or the consolidated

dividend carryover of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such unused dividend carryover was not absorbed in the computation of the consolidated section 561 dividends paid deduction for the intervening consolidated return period.

* * * * *

PAR. 5. Section 1.1502–43 is amended to read as follows:

§ 1.1502–43 Credit for foreign taxes.

(a) *Choice of credit or deduction.* The credit under section 901 for taxes paid or accrued to any foreign country or possession of the United States shall be allowed to an affiliated group filing a consolidated return only if the common parent corporation chooses to use such credit in the computation of the tax liability of the group for the taxable year. If this choice is made, no deduction may be taken under section 164 on the consolidated return for such taxes paid or accrued by any member of the group. For purposes of this section, the term "taxes paid or accrued to any foreign country or possession of the United States" includes the amount of taxes deemed paid pursuant to section 902.

(b) *Amount of credit.* Subject to the limitation provided in paragraph (c) of this section, the credit allowable to an affiliated group filing a consolidated return shall be an amount equal to the aggregate of the taxes paid or accrued to any foreign country or possession by the several members of the affiliated group for the taxable year, plus the aggregate of the consolidated excess tax paid carryovers and carrybacks to the taxable year allowable as a credit under section 904(c).

(c) *Per country limitation.* The credit for tax paid or accrued for the taxable year to any country or possession shall not exceed an amount which bears the same ratio to the total tax of the affiliated group against which the credit is taken as the consolidated taxable income of the group from sources within such country or possession (but not in excess of the consolidated taxable income of the group) bears to the entire consolidated taxable income.

(d) *Consolidated excess tax paid carryovers.* The consolidated excess tax paid carryovers to the current taxable year for taxes paid to any foreign country or possession shall consist of—

(1) The consolidated excess tax paid to such country or possession for the five preceding taxable years (not including as a preceding taxable year any taxable year beginning before January 1, 1958) to the extent that the consolidated excess tax paid for any such preceding taxable year was not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the current taxable year and was not absorbed pursuant to section 904(c) in years preceding the current taxable year (whether or not taken as a credit), and,

with respect to the excess tax paid by a corporation in a taxable year for which a separate return was filed, or for which such corporation joined in a consolidated return filed by another affiliated group, but subject to the limitation prescribed in paragraph (h) of this section—

(2) The amount of the excess tax paid to such country or possession by such corporation for the five preceding taxable years (not including as a preceding taxable year any taxable year beginning before January 1, 1958) to the extent that the excess tax paid for any such preceding taxable year was not absorbed pursuant to section 904(c) in years preceding the current taxable year (whether or not taken as a credit).

(e) *Consolidated excess tax paid carrybacks.* (1) The consolidated excess tax paid carrybacks to the current taxable year for taxes paid to any foreign country or possession shall consist of—

(i) The consolidated excess tax paid to such country or possession for the first succeeding taxable year (to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the current taxable year) reduced to the extent absorbed pursuant to section 904(c) in the first preceding taxable year (whether or not taken as a credit), and

(ii) The consolidated excess tax paid to such country or possession for the second succeeding taxable year to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the current taxable year;

and, with respect to any excess tax paid to such country or possession by a corporation which for either of the two succeeding taxable years files a separate return or joins in a consolidated return filed by another affiliated group, but subject to the limitation prescribed in paragraph (h) of this section—

(iii) The amount of such excess tax paid by such corporation for the first succeeding taxable year reduced to the extent absorbed pursuant to section 904(c) by such corporation for the first preceding taxable year (whether or not taken as a credit), or if the income of such corporation is included in a consolidated return for the first preceding taxable year, reduced to the extent absorbed pursuant to section 904(c) by such consolidated return (whether or not taken as a credit); and

(iv) The amount of such excess tax paid by such corporation for the second succeeding taxable year.

(2) The excess tax paid, whether consolidated or separate, may not be carried back to a taxable year beginning before January 1, 1958; and in determining the carryover or carryback to taxable years beginning on or after January 1, 1958, no amount shall be treated as absorbed for taxable years beginning before such date.

(f) *Consolidated excess tax paid.* The consolidated excess tax paid to any foreign country or any possession for a taxable year is the excess of the aggregate of the taxes paid or accrued by the several members of the affiliated group to such country or possession over the per country limitation described in paragraph (c) of this section applicable to such country or possession. However, there is no consolidated excess tax paid for a taxable year in which the affiliated group takes any deduction under section 164 for such taxes paid or accrued to a foreign country or possession.

(g) *Excess tax paid.* The excess tax paid or accrued to any foreign country or possession by a corporation for any year for which a separate return is filed is the excess of the taxes paid or accrued by the corporation to such foreign country or possession over the amount allowable as a credit for such year pursuant to section 904(a). However, there is no such excess tax paid or accrued for a taxable year in which the corporation takes a deduction under section 164 for such taxes paid to any foreign country or possession.

(h) *Limitation on credit for carryovers and carrybacks of excess tax paid from separate return years.* In no case shall there be included in the credit for taxes paid or accrued to any foreign country or possession for the taxable year as consolidated excess tax paid carryovers under paragraph (d)(2) of this section (relating to excess tax paid by a corporation in years for which separate returns were filed, or for which such corporation joined in a consolidated return filed by another affiliated group), and as consolidated excess tax paid carrybacks under paragraph (e)(1)(iii) and (iv) of this section (relating to excess tax paid by a corporation which for either of the two succeeding taxable years files a separate return or joins in a consolidated return filed by another affiliated group), an amount exceeding in the aggregate that which would be allowable as a credit for a carryover or carryback to such corporation if it had filed a separate return for such taxable year.

(i) *Apportionment of consolidated excess tax paid.* If an affiliated group filing a consolidated return has a consolidated excess tax paid with respect to any foreign country or any possession for the taxable year and if there are included as members of such group one or more corporations which make separate returns (or join in a consolidated return filed by another affiliated group) in a preceding or succeeding taxable year, the portion of such consolidated excess tax paid attributable to such corporations severally shall be determined. The portion in the case of any such corporation shall be the amount which bears the same ratio to such consolidated excess tax paid as the tax paid or accrued by such corporation to such country or possession bears to the total tax paid or accrued by the affiliated group to such country or possession.

(j) *Consolidated excess tax paid before or after consolidated return period.* The consolidated excess tax paid by an affiliated group with respect to any foreign country or possession shall be used in computing the consolidated excess tax paid carryover and carryback of the group notwithstanding that one or more corporations that were members of the

group in the taxable year in which such consolidated excess tax paid originates make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year (or in the case of a carryback for a preceding taxable year) but only to the extent that such consolidated excess tax paid is not attributable to such corporation. Such portion of such consolidated excess tax paid as is attributable to the several corporations making separate returns (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year (or in the case of a carryback, for a preceding taxable year) reduced to the extent absorbed in earlier years shall be used by such corporations severally as carryovers or as carrybacks in such separate returns or in such consolidated returns of the other affiliated group. Any excess tax paid by a corporation prior to the first taxable year in which its income is included in the consolidated return of the group (or paid in either of the two years immediately following a consolidated return year) may be used in computing the carryover or carryback of such corporation (or of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in the consolidated return of another group, but only to the extent that such excess tax paid was not absorbed (either as a carryover or as a carryback) for consolidated return periods.

PAR. 6. Section 1.1504 is amended to read as follows and to add historical note:

§ 1.1504 Statutory provisions; definitions.

SEC. 1504. *Definitions.*

(b) *Definition of "includible corporations".* * * *

(2) Insurance companies subject to taxation under section 802 or 821.

* * * * *

(8) An electing small business corporation (as defined in section 1371(b)).

* * * * *

[Sec. 1504 as amended by sec. 5; Act of March 13, 1956 (Pub. Law 429, 84th Cong., 70 Stat. 49); sec. 64(d)(3), Technical Amendments Act 1958 (72 Stat. 1657) sec. 3(f)(1) Life Insurance Company Income Tax Act 1959 (73 Stat. 140)]

PAR. 7. Section 1.1551 is amended to read as follows and to add historical note:

§ 1.1551 Statutory provision; disallowance of surtax exemption and accumulated earnings credit.

SEC. 1551. *Disallowance of surtax exemption and accumulated earnings credit.* If any corporation transfers, on or after January 1, 1951, all or part of its property (other than money) to another corporation which was created for the purpose of acquiring such property or which was not actively engaged in business at the time of such acquisition, and if after such transfer the transferor corporation or its stockholders, or both, are in control of such transferee corporation during any part of the taxable year of such transferee corporation, then such transferee corporation shall not for such taxable year (except as may be otherwise determined under section 269(b)) be allowed either the $25,000 exemption from surtax provided in section 11(c) or the $100,000 accumulated earnings credit provided in paragraph (2) or (3) of section 535(c), unless such transferee corporation shall establish by the clear preponderance of the evidence that the securing of such exemption or credit was not a major purpose of such transfer. For purposes of this section, control means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of stock of the corporation. In determining the ownership of stock for the purpose of this section, the ownership of stock shall be determined in accordance with the provisions of section 544, except that constructive ownership under section 544(a)(2) shall be determined only with respect to the individual's spouse and minor children. The provisions of section 269(b), and the authority of the Secretary under such section, shall, to the extent not inconsistent with the provisions of this section, be applicable to this section.

[Sec. 1551 as amended by sec. 205(a), Small Business Tax Revision Act of 1958 (72 Stat. 1680)]

PAR. 8. Paragraph (a) of § 1.1551–1 is amended to read as follows:

§ 1.1551–1 Disallowance of surtax exemption and accumulated earnings credit.

(a) *In general.* If one corporation transfers on or after January 1, 1951, all or part of its property (other than money) to another corporation, neither the $25,000 exemption from surtax provided in section 11(c) nor the $100,000 ($60,000 if the taxable year begins before January 1, 1958) accumulated earnings credit provided in paragraph (2) or (3) of section 535(c) shall be allowed the transferee if: * * *

[F.R. Doc. 59–7610; Filed, Sept. 10, 1959; 8:50 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 6—UNITED STATES GOVERNMENT LIFE INSURANCE

PART 8—NATIONAL SERVICE LIFE INSURANCE

Miscellaneous Amendments

1. In Part 6, §§ 6.0 and 6.1 are revoked:

§ 6.0 Under section 300, World War Veterans' Act, 1924, as amended. [Revoked]

§ 6.1 Under section 310, World War Veterans' Act, 1924, as amended. [Revoked]

2. In § 6.2, the headnote and paragraphs (a), (b) and (c) are amended to read as follows:

§ 6.2 Applications for insurance under section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) Any person who, while in the active service on or after April 25, 1951, and prior to January 1, 1957, surrendered a permanent plan of United States Government life insurance which was in force other than as extended term insurance, for its cash value under the provisions of § 6.115 or under § 6.186 if the policy had no cash value, shall be granted a new policy of United States Government life insurance in accordance with § 6.3(a), provided a written application signed by the applicant and payment of the required premium are made on or after January 1, 1959 within the period set forth in paragraph (c) of this section and the other conditions of that paragraph are met. Such insurance shall be granted without medical examination. If the applicant is mentally incompetent, the application for insurance under this paragraph may be made only by the guardian (committee or conservator), and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

(b) Any person having United States Government life insurance on the 5-year level premium term plan, the term of which expired while such person was in the active service after April 25, 1951, or within 120 days after separation from such active service, and in either case prior to January 1, 1957, shall be granted United States Government life insurance on the 5-year level premium term plan in accordance with § 6.3(b) provided a written application signed by the applicant, payment of the required premium, and evidence of good health satisfactory to the Administrator are submitted on or after January 1, 1959, within the period set forth in paragraph (c) of this section and the other conditions of that paragraph are met.

(c) Any person whose permanent plan insurance was surrendered or whose term insurance expired under the conditions provided in this section, and who had continuous indemnity protection from the surrender or expiry date to January 1, 1957, continuous active service from January 1, 1957 to January 1, 1959, and continuous active duty thereafter, may make application for insurance under this section while on continuous active duty or within 120 days after separation from such service or duty. A person who reenters active service or duty on the date of separation or the following day shall be deemed to be in continuous active service or on continuous active duty.

3. The centerhead immediately preceding § 6.3 is amended to read "United States Government life insurance issued pursuant to section 5 of the Servicemen's Indemnity Act, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code."

4. Section 6.3 is revised to read as follows:

§ 6.3 United States Government life insurance issued pursuant to section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code.

(a) United States Government life insurance on a permanent plan, issued pursuant to the provisions of section 5

of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act, or section 781 of Title 38, United States Code shall be issued on the same plan and under the same terms and conditions as the United States Government life insurance which was surrendered. The amount of permanent plan United States Government life insurance issued pursuant to said section 5, section 623, or section 781 shall not be in excess of the amount of insurance which was surrendered.

(b) United States Government life insurance on the 5-year level premium term plan, issued pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act, or section 781 of Title 38, United States Code shall be issued under the same terms and conditions as the United States Government life insurance 5-year level premium term policy which expired. The amount of 5-year level premium term insurance issued pursuant to said section 5, section 623 or section 781 shall not be in excess of the amount of term insurance which expired.

(c) The amount of insurance granted under said section 5, section 623, or section 781 plus the amount of any other insurance (National Service Life—United States Government life—War Risk) in force under premium-paying conditions, or as paid-up or extended insurance, shall not exceed $10,000.

5. Sections 6.5 and 6.6 are revoked:

§ 6.5 Insurance applied for by person entering active military or naval service. [Revoked]

§ 6.6 Insurance applied for under section 310, World War Veterans' Act, 1924, as amended. [Revoked]

6. Section 6.7 is revised to read as follows:

§ 6.7 Effective date of United States Government life insurance applied for pursuant to the provisions of section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) The effective date of United States Government life insurance issued pursuant to the provisions of section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States, Code may be established upon written request of the applicant as follows:

(1) As of the date on which valid application and tender of premiums are made.

(2) As of the first day of the month in which valid application and tender of premiums are made.

(3) As of the first day of the month following the month in which valid application and tender of premiums are made.

(4) As of the first day of any month, but not more than 6 months prior to the month in which valid application and tender of premiums are made: *Provided,* That there be paid (i) an amount equal to the full reserve on the insurance at the end of the month prior to the month in which application is made, and (ii) the full premium on the amount of insurance for the month in which application is made.

(b) Unless otherwise specified by the applicant, the effective date of such United States Government life insurance shall be established as of the date on which valid application and tender of premiums are made.

7. Section 6.15 is revised to read as follows:

§ 6.15 Due date of premiums.

Premiums on United States Government life insurance are due and payable monthly in advance in legal tender of the United States of America to the Veterans Administration in the city of Washington, District of Columbia or any office of the Veterans Administration authorized to receive premium payments. Premiums may be paid annually, semiannually, or quarterly, in advance, in which case the premium payable will be the sum of the monthly premiums for the period discounted at 3½ percent per annum. The discounted premiums for these periods are stated on the first page of the policy. At maturity by death or otherwise, the discounted value at 3½ percent per annum of the premiums paid in advance beyond the current calendar month shall be refunded to the insured, if living; otherwise to the beneficiary. If any premium be not paid when due, the policy shall cease and become void except as otherwise provided.

8. Section 6.17 is revised to read as follows:

§ 6.17 Payment of insurance premiums by mail.

When it appears by proof satisfactory to the Administrator of Veterans Affairs that the person to whom United States Government life insurance has been granted, or any person acting on his behalf has deposited in the mail, within the grace period allowed by Veterans Administration regulation for payment of a premium, an envelope properly addressed to the Veterans Administration, Washington 25, D.C., or any field station of the Veterans Administration, containing money, check, draft, or money order, in payment of a premium, such insurance will not lapse for nonpayment of such premium within the grace period: *Provided,* That any such check or draft is paid on presentation for payment or the conditions of § 6.17a are met.

9. In § 6.20, the introductory paragraph and paragraphs (a) and (b) are amended to read as follows:

§ 6.20 Deduction of insurance premiums from compensation, retirement pay, or pension.

The insured under a United States Government life insurance policy which is not lapsed, may authorize the monthly deduction of premiums from disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension that may be due and payable to him under any laws administered by the Veterans Administration in accordance with the following provisions.

(a) The authorization must be in writing over the signature of the insured, or his legal representative, and, whenever practicable on such forms as may be prescribed by the Veterans Administration. If insured is incompetent and has no legal representative and has a wife to whom benefits are being paid pursuant to section 3202(f) of Title 38, United States Code and § 13.201 of this chapter, she may authorize payment of insurance premiums through the deduction system. If insured is incompetent and has no legal representative and an institutional award has been made in his behalf, the authorization may be executed by the Manager of the field station in which the insured is hospitalized or receiving domiciliary care, and, in appropriate cases, by the chief officers of State hospitals or other institutions to whom similar awards may have been approved.

(b) The monthly disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension so due and payable must be equal to, or in excess of, the amount of the insurance premium figured on a monthly basis.

10. Sections 6.21, 6.22, and 6.23 are revised to read as follows:

§ 6.21 Authorization for deduction of insurance premiums from compensation, retirement pay, or pension.

The authorization for deductions from disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension to be acceptable for the payment of insurance premiums must be executed and mailed or otherwise delivered to the Veterans Administration while the insurance is not lapsed. Such an authorization will be effective against the benefit payment for the month in which it is mailed or otherwise delivered to the Veterans Administration unless the insured elects to have the authorization become effective against the benefit payment for a succeeding month. However, the deduction made from the benefit payment for the month in which the authorization becomes effective shall be for the insurance premium due in the succeeding calendar month. When premium deductions are authorized in accordance with the provisions of Veterans Administration regulations, the Veterans Administration will make monthly deductions from the benefit payment due and payable to the insured of an amount sufficient to pay the monthly insurance premium. Such deductions will continue so long as the benefit payment due and payable to the insured is sufficient to pay the monthly insurance premium or until the authorization is revoked by the veteran or otherwise terminated.

§ 6.22 Premiums to be deducted from compensation, retirement pay, or pension, treated as paid, for purpose of preventing lapse.

When premium deductions are authorized by the insured under United States Government life insurance in accordance with the provisions of Veterans Administration regulations, the insurance premium will be treated as paid for the purpose of preventing lapse of the in-

surance, although such deduction is not in fact made, if upon the due date of the premium there is due and payable to the insured an amount of disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension sufficient to provide the payment. Any premium authorized to be deducted from such compensation, retirement pay, or pension due and payable to the insured and not actually paid shall be deducted from the amount of such current compensation, retirement pay, or pension that may become due and payable to the insured. The amounts so deducted for premiums shall be deposited and covered into the Treasury to the credit of the United States Government Life Insurance Fund.

§ 6.23 Termination of the authorization to deduct insurance premiums from compensation, retirement pay, or pension.

Deduction of insurance premiums on United States Government life insurance shall cease and the authorization shall terminate if the disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension becomes insufficient to provide the premium or if such compensation, retirement pay, or pension is no longer due and payable to the insured. If authorization was executed by the Manager of a Veterans Administration hospital or domiciliary or chief officer of a State hospital or other institution to make deductions from an institutional award, the authorization will cease and terminate at the termination of the institutional award, and, if subsequent premiums are to be paid by deduction from monthly benefit payments, another authorization must be executed by the insured or his legal representative or his wife. (See § 6.20(a).) The insurance shall lapse after the termination or cancellation of the authorization to deduct premiums from compensation, retirement pay, or pension, unless the premium be otherwise paid within the grace period. The insured will be notified by letter directed to his last address of record, of the termination of the authorization to deduct premiums; but the failure to give such notice or the failure to receive such notice shall not prevent lapse of the insurance.

11. Section 6.35 is revised to read as follows:

§ 6.35 Establishment of grace period.

For the payment of any premium under a United States Government life insurance policy, a grace period of 31 days without interest will be allowed, during which time the policy will remain in force; but if the policy shall become a claim within the grace period, the unpaid premium shall be deducted from the amount of insurance payable. A 5-year level premium term policy shall cease and become void at the end of the 60-month period unless renewed as provided in Veterans Administration regulations.

12. Section 6.40 is revised to read as follows:

§ 6.40 Forms of policies.

The forms of policies of insurance described and designated below are hereby prescribed for use in granting United States Government life insurance. Contracts of insurance authorized to be made in accordance with the terms and conditions set forth in the forms of policies described and designated in this section are subject in all respects to the applicable provisions of Title 38, United States Code, amendments and supplements thereto, and all Veterans Administration regulations promulgated pursuant thereto.

Ordinary life policy (VA Form 9–741)
Five-year level premium term policy (VA Form 9–735)
Twenty-payment life policy (VA Form 9–747)
Thirty-payment life policy (VA Form 9–748)
Twenty-year endowment policy (VA Form 9–749)
Thirty-year endowment policy (VA Form 9–750)
—— year endowment policy (VA Form 9–751)

The 5-year level premium term policy (VA Form 9–735) is substituted for the 5-year convertible term policy (VA Form 9–745). Additions to or modifications of said policies may hereafter be made by the Administrator of Veterans Affairs.

13. Sections 6.41 and 6.42 are revoked:

§ 6.41 Form to be used in applying for converted insurance. [Revoked]

§ 6.42 Forms of application and policies to be used in converting yearly renewable term insurance subsequent to July 2, 1927. [Revoked]

14. In § 6.45, paragraph (a) is amended to read as follows:

§ 6.45 Incontestability of United States Government life insurance.

(a) A United States Government life insurance policy shall be incontestable from the date of issuance, reinstatement or conversion, except for fraud, nonpayment of premiums, or on the ground that the applicant was not a member of the military or naval forces of the United States, and the policy is issued free of restrictions as to travel, residence, occupation, or military or naval service. However, no insurance shall be payable for death inflicted as a lawful punishment for crime or military offense, except when inflicted by the enemy: *Provided*, That the cash value, less any indebtedness, on the date of such death shall be paid to the designated beneficiary if living, or, if there be no designated beneficiary alive at the death of the insured, the said value shall be paid to the estate of the insured.

15. Section 6.46 is revised to read as follows:

§ 6.46 Refund of premiums in fraud cases.

Where United States Government life insurance is canceled or voided for fraud and notice thereof is mailed after March 16, 1954, any premiums paid on such insurance for any period subsequent to 2 years after the date insurance was issued, reinstated, or converted because of such fraud shall be refunded without interest. On antedated policies the date of issue or conversion for the purpose of this section is the due date of the first full premium. The amount of any dividends, loan, or other insurance payment made as a result of the fraudulent issue, reinstatement or conversion shall be deducted from such refund. The refund shall be made to the insured, if living, otherwise to the designated beneficiary; or, if no designated beneficiary survives, to the insured's estate.

16. Section 6.51 is revised to read as follows:

§ 6.51 To a policy at a higher rate of premium as of a current effective date.

A United States Government life insurance policy on the 5-year level premium term plan may be exchanged for a policy of the same amount on any plan of insurance issued by the Veterans Administration at a higher rate of premium, upon payment of the current monthly premium at the attained age of the insured for the plan of insurance selected: *Provided*, That where premium waiver on United States Government life insurance is effective under section 622 of the National Service Life Insurance Act, as amended, or section 724 of Title 38, United States Code, that portion of the current monthly premium at the attained age of the insured for the plan of insurance selected which is not required for the pure insurance risk must be paid. The reserve (if any) on the policy will be allowed as a credit on the current monthly premium. Such exchange will be made without medical examination upon complete surrender of the insurance while in force and within 5 years from the effective date of the policy.

17. Section 6.78 is revised to read as follows:

§ 6.78 Provisions for reinstatement.

(a) Subject to the United States Government life insurance provisions of Title 38, United States Code, and Veterans Administration regulations issued thereunder, any insurance which has lapsed or may hereafter lapse and which has not been surrendered for a cash value or for paid-up insurance may be reinstated upon written application signed by the applicant, and, except as hereinafter provided in this paragraph, upon payment of all premiums in arrears, with interest from their several due dates, provided such applicant at the time of application and tender of premiums is in the required state of health as shown in § 6.79 (a) or (b), whichever is applicable, and submits evidence thereof at the time of application and tender of premiums as may be satisfactory to the Administrator of Veterans Affairs. Interest on premiums in arrears shall be at the rate of 5 per centum per annum, compounded annually, to the first monthly premium due date after July 31, 1946, and thereafter at the rate of 4 per centum per annum, compounded annually: *Provided*, That no interest on premiums in arrears will be required if reinstatement is effected within 3 months from the due date of the premium in default. The payment or rein-

statement of any indebtedness against any policy must be made, with interest, and if such indebtedness with interest exceeds the reserve of the policy at the time of application for reinstatement thereof, then the amount of such excess shall, except as provided in § 6.81, be paid by the applicant as a condition of the reinstatement of the indebtedness and of the policy. A lapsed United States Government life insurance policy which is in force under extended term insurance may be reinstated without health statement or other medical evidence, if application and tender of premiums with the required interest are made not less than 5 years prior to the date such extended insurance would expire. In any case in which the extended insurance under an endowment policy provides protection to the end of the endowment period, such policy may be reinstated upon application and payment of the premiums with the required interest, and health statement or other medical evidence will not be required. United States Government life insurance on the 5-year level premium term plan may be reinstated at any time after lapse and within the 60-month period upon evidence of the insurability of the insured satisfactory to the Administrator of Veterans Affairs and upon payment of two monthly premiums, one for the month of lapse, the other for the premium month in which reinstatement is effected. Any indebtedness against the policy must be paid or reinstated with interest. Such insurance when reinstated without payment of all premiums in arrears with interest shall have no reserve value. The provisions of the "reinstatement" clause in United States Government life insurance policies are hereby amended accordingly.

(b) Reinstatement is effected when an acceptable application and the required premiums are delivered to the Veterans Administration. If application for reinstatement is submitted by mail, properly addressed to the Veterans Administration, the postmark date shall be the date of delivery. The effective date of reinstatement of the insurance shall be the last monthly premium due date prior to the delivery or postmark date of the application for reinstatement, except where reinstatement is effected on the due date of a premium, then in such case, that date shall be the reinstatement date.

18. Sections 6.80 and 6.81 are revised to read as follows:

§ 6.80 Application and medical evidence.

The applicant for reinstatement of United States Government life insurance must furnish during his lifetime, and before becoming totally and permanently disabled, and within the three calendar months including the calendar month for which the unpaid premium was due, a written application signed by him which shall state that he is in as good health as at date of lapse, or after the expiration of the three calendar months, a written application signed by him that he is in good health, in accordance with the requirements of the particular case; and in addition the applicant shall furnish such evidence relative to his physical condition as may be required by the Administrator of Veterans Affairs, and on such forms as may be prescribed: *Provided,* That if the insurance becomes a claim after tender of the amount of the premiums required but before full compliance with the requirements of this section, and the applicant was in the required state of health at the date that he made the tender of the amount of premiums, and that there is a satisfactory reason for his noncompliance, the Director, Accounts and Underwriting Service in Central Office and the Director, Insurance Service in the District Office in Philadelphia, Pennsylvania, may, if the applicant be dead, waive any or all of the requirements of this section, or, if the applicant be living, allow compliance with this section, as of the date the required amount of premiums was received by the Veterans Administration.

§ 6.81 Indebtedness at time of reinstatement.

The United States Government life insurance shall not be deemed to be reinstated until satisfactory evidence of good health has been furnished and approved as required, and, except as provided in § 6.78, until all premiums in arrears have been paid with the required interest, and any indebtedness existing at the time of default has been paid or reinstated as set forth in the policy: *Provided,* That any indebtedness on account of unpaid service premiums and premiums waived under authority of section 306 of the World War Veterans' Act, 1924, as amended, or section 760 of Title 38, United States Code, may be reinstated, even though the amount of such indebtedness exceeds the reserve of the policy; and such indebtedness unless otherwise paid shall be deducted from the proceeds of insurance in any settlement thereof, or from the cash value when such value is taken in cash or used for the purpose of purchasing paid-up or extended insurance or making a loan: *Provided further,* That the amount of such unpaid premiums with interest shall not be considered an indebtedness as is set forth in paragraph 5(D) of the contract of Government life insurance to cause the policy to cease and become void if the amount (premiums with interest) is greater than the cash surrender value of an insurance without indebtedness, so long as current premiums are being paid by the insured when due or the payment on the due date thereof is being waived as provided by Veterans Administration regulations.

19. Section 6.85 is revoked:

§ 6.85 Reinstatement of policies in force under extended insurance. [Revoked]

20. In § 6.86, the headnote and paragraphs (a) and (b) are amended to read as follows:

§ 6.86 Applications for reinstatement of United States Government life insurance pursuant to section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) Any person who, while in the active service on or after April 25, 1951, and prior to January 1, 1957, surrendered a permanent plan policy of United States Government life insurance which was in force other than as extended term insurance, for its cash value under the provisions of § 6.115 or under § 6.186 if the policy had no cash value, upon written application made by any such person on or after January 1, 1959, within the period set forth in paragraph (b) of this section and upon meeting the other conditions of that paragraph, may reinstate such surrendered United States Government life insurance (or any portion thereof in multiples of $500, not less than $1,000) without medical examination upon payment of (1) an amount required to provide the full reserve of the insurance at the end of the month prior to the month in which application is made and (2) the full premium on the amount of insurance for the month in which application is made. If the applicant is mentally incompetent the application for reinstatement under this section may be made only by the guardian (committee or conservator) and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

(b) Any person whose permanent plan insurance was surrendered under the conditions provided in this section, and who had continuous indemnity protection from the date of surrender to January 1, 1957, continuous active service from January 1, 1957, to January 1, 1959, and continuous active duty thereafter, may make application for reinstatement under this section while on continuous active duty or within 120 days after separation from such service or duty. A person who reenters active service or duty on the date of separation or the following day shall be deemed to be in continuous active service or on continuous active duty.

21. In § 6.90, paragraph (b) is amended to read as follows:

§ 6.90 Examinations for insurance purposes.

* * * * *

(b) Physical examinations required of applicants for United States Government life insurance, or for reinstatement of such insurance, may be made free of charge to the applicant by a full-time or part-time salaried physician at a field station of the Veterans Administration upon the request of the applicant, or upon the specific request of the underwriting activity in connection with an application for reinstatement of insurance when deemed necessary in order properly to safeguard the interests of the Government. Physical examinations required of applicants for United States Government life insurance or for rein-

statement of such insurance, may be made at applicant's own expense by a physician duly licensed for the practice of medicine by a State, Territory of the United States, or the District of Columbia, or by a duly licensed osteopathic physician who is a graduate of a recognized and approved college of osteopathy and who is listed in the current directory of the American Osteopathic Association. Such examination may be made by a physician or osteopath who is not related to the applicant by blood or marriage, associated with him in business, or pecuniarily interested in the issuance or reinstatement of the policy. Examinations made in a foreign country by a physician duly licensed for the practice of medicine and otherwise acceptable may be accepted if submitted through the American consul. The Administrator of Veterans Affairs may require such further medical examination or additional medical evidence as may be deemed necessary and proper to establish the physical and mental condition of the applicant at the time of the application.

22. Section 6.91 is revised to read as follows:

§ 6.91 Examinations and inspections for insurance purposes where applicant or claimant, by reason of his physical or mental condition, is unable to appear at an office of the Veterans Administration.

If an individual is unable to travel because of physical or mental condition, the Manager of a regional office or hospital may, on his own initiative or at the request of the insurance activity concerned, authorize at Government expense examination at the home of the person to be examined in those instances in which, as provided by § 6.90, examination by a full-time or part-time salaried physician is deemed necessary properly to safeguard the interests of the Government. Examination at the home of an applicant for reinstatement of insurance can be authorized at Government expense only by the Underwriting activity.

23. In § 6.92, paragraphs (a), (b) and (c) are amended to read as follows:

§ 6.92 Expenses incident to examinations for insurance purposes.

(a) Necessary transportation expenses incident to physical or mental examinations at regional offices or hospitals of the Veterans Administration may be furnished in the following instances: (1) When, upon filing of an application for payment of insurance benefits, an applicant is ordered to report for examination by the Veterans Administration to determine the existence of total or total and permanent disability; (2) when an individual receiving payments of insurance benefits is ordered to report for the examination by the Veterans Administration to determine if he has recovered the ability to follow a gainful occupation; (3) when an individual is ordered to report for examination by the Veterans Administration to determine the existence of mental incompetency for the purpose of waiver of payment of an insurance premium on its due date.

(b) Necessary transportation expenses may be furnished, incident to a physical examination at a regional office or hospital of the Veterans Administration of an applicant for reinstatement of insurance: *Provided,* That the applicant was ordered to report for the examination at the specific request of the Underwriting activity.

(c) Such expenses will be borne by the United States and will be paid from the applicable appropriation of the Department of Medicine and Surgery. Transportation, meal, and lodging requests in connection with reporting to and returning from the place of examination will be furnished the applicant or claimant provided prior authority has been given for the travel. Travel incident to such an examination by salaried employees of the Veterans Administration will be in accordance with the Standardized Government Travel Regulations. If such examination is made by a medical examiner on a fee basis, payment will be made at a fee not in excess of the schedule of fees in effect and approved by the Veterans Administration for medical and professional services in the State in which the examination is made. Where no approved State fee schedule is in effect or where a fee for the type of examination authorized is not listed in the approved State fee schedule in effect, such examinations will be furnished at a fee not in excess of that listed in the "Guide for Charges for Medical and Ancillary Services" of the Department of Medicine and Surgery in effect at the time the examination is authorized. If the particular examination is not covered by a schedule in effect and/or the said guide, a fee not in excess of what is reasonable and customarily charged in the community concerned may be allowed.

24. Section 6.96 is revised to read as follows:

§ 6.96 Special dividends.

Any special United States Government life insurance dividend that may be declared shall be paid in cash only. Such special dividends shall not be accepted to accumulate on deposit or as a dividend credit. Unpaid special dividends shall not be available to pay premiums.

25. Section 6.102 is revised to read as follows:

§ 6.102 Rate of interest on policy loans on and after July 19, 1939.

(a) On and after July 19, 1939, and except as provided in paragraph (b) of this section, the interest on all policy loans then outstanding or thereafter granted will be at the rate of 5 per centum per annum.

(b) On and after August 1, 1946, the interest on all policy loans then outstanding or thereafter granted will be at the rate of 4 per centum per annum.

26. Section 6.118 is revised to read as follows:

§ 6.118 Collection of unpaid premiums.

When it becomes necessary to collect and deduct unpaid premiums and interest due under yearly renewable term or United States Government life insurance, such unpaid premiums and interest shall be deducted from the amount of the insurance (commuted value of the installments then due and payable), thus reducing the amount of each monthly installment in the proportion that the amount of the indebtedness bears to the amount of insurance.

27. Section 6.123 is revised to read as follows:

§ 6.123 Recovery from total permanent disability.

Notwithstanding proof of total permanent disability may have been accepted as satisfactory, the insured shall at any time, on demand, furnish proof satisfactory to the Administrator of Veterans Affairs of the continuance of such total permanent disability, and, if the insured shall fail to furnish such proof, all payments of monthly installments on account of such total permanent disability under a United States Government life insurance policy shall cease and all premiums thereafter falling due shall be payable in conformity with the policy. Thereafter, the premium to be paid and the cash values, paid-up insurance values, and loan values shall be reduced so that the resulting premium and values shall bear the same proportion to the premiums and values, respectively specified on the policy, that the commuted values of the remaining installments (240 installments less the number paid) bears to the commuted value of 240 installments. The extended insurance values shall be modified accordingly. (See also § 6.124.)

28. New §§ 6.123a, 6.123b, and 6.124 are added to read as follows:

§ 6.123a Recovery from disability; 5-year level premium term policy.

Notwithstanding proof of total permanent disability may have been accepted as satisfactory, the insured under a United States Government life insurance policy on the 5-year level premium term plan shall at any time, on demand, furnish proof satisfactory to the Administrator of Veterans Affairs of the continuance of such total permanent disability. If the insured shall fail to furnish such proof, all payments of monthly installments on account of such total permanent disability shall cease, and all premiums thereafter falling due shall be payable in conformity with the 5-year level premium term policy. Thereafter the premium to be paid shall be reduced so that the resulting premium shall bear the same proportion to the premium specified on the policy that the commuted value of the installments (240 less the number paid) bears to the commuted value of 240 installments. If recovery from total permanent disability takes place after the expiration of the term period, the insurance may be continued in accordance with § 6.123b.

§ 6.123b Continuance of insurance after termination of total and permanent rating and award, where such termination is effective after the expiration of the term period.

If United States Government life insurance on the 5-year level premium term plan (or on the 5-year convertible term plan) matures or has matured by reason of total and permanent disability and the insured recovers from such disability after expiration of the term period, the reduced amount of insurance (commuted value of remaining unpaid installments) shall be automatically renewed at the premium rate for the attained age of the insured on the policy anniversary renewal date of the current 5-year period. The reduced amount of insurance or any part thereof in multiples of $500 and not less than $1,000 may be continued without medical examination on the level premium term plan or on any permanent plan, as the insured may elect, and subject to the following provisions:

(a) Such insurance may be continued in force as 5-year level premium term insurance upon payment of premiums, as required in paragraph (c) of this section, at the rate required for the attained age of the insured on the policy anniversary renewal date for the current 5-year period. A certificate of renewal will be issued effective on the policy anniversary renewal date.

(b) Such insurance may be converted to any of the permanent plans upon application therefor and payment of premiums at the rate required for the then attained age, and a policy will be issued to the insured effective as of the date on which the first premium became payable.

(c) The insurance shall lapse unless the first premium is paid in accordance with this paragraph. The first premium on the reduced amount of insurance for the plan selected is payable on the first day of the month following the month for which the last installment under the total and permanent disability rating was paid to the insured, but may be paid within 31 days from the date of notice advising of the amount of insurance and the monthly premium rate. Thereafter, subsequent premiums will be payable in accordance with the terms and conditions of the policy.

§ 6.124 Grace period for payment of first premium payable on United States Government life insurance and total disability insurance after termination of a total and permanent disability insurance award and a total disability insurance award.

United States Government life insurance and total disability insurance shall not lapse during the period between the termination of a total and permanent disability insurance award or the termination of a total disability insurance award and 31 days from the due date of the first premium payable after such termination or 31 days from the date of notice mailed to the insured's last address of record advising of the termination of the award and the amount and due date of the first premium so payable, whichever is the later date. If the premium or premiums be not paid within said 31 days, the insurance policy and the total disability provision shall lapse in accordance with the terms and conditions thereof and shall otherwise be subject to the terms and conditions of said policy and provision. A letter by registered mail will be mailed to the insured at his last address of record advising of the due date of the first premium payable after termination of the award, and of the amount of insurance, and the amount due as premiums. The mailing of such letter to the insured's last address of record will be sufficient notice within the provisions of this section, and the failure of the insured to furnish a correct current address at which mail will reach him promptly shall not be grounds for an extension of time under this section.

29. Section 6.126 is revised to read as follows:

§ 6.126 Death by suicide.

Payment of claims arising under yearly renewable term insurance and United States Government life insurance, validly granted, and where said insurance was in force at the time of the death of the insured, shall not be refused or contested on the ground that death was by suicide, sane or insane.

30. Section 6.150 is revised to read as follows:

§ 6.150 Claims alleging insurance contract where there is no application for insurance on file.

In those cases where claim is made alleging that a person made valid application for yearly renewable term (War Risk) insurance or United States Government life insurance, and that the insurance is subject to reinstatement, or that such insurance matured by reason of the total and permanent disability or death of the person at a time when the insurance was in force, and, in case of death, that there was a valid designation of beneficiary, or that there is entitlement to total disability benefits, and where there is no application for insurance on file, the claimant will be required to submit all available evidence concerning the alleged application for insurance in such manner and on such forms as may be deemed necessary. The evidence submitted by the claimant and the evidence as disclosed by records in possession of the Government relative to the question as to whether the person made a valid application for insurance will be considered and, if found sufficient to establish as a fact that the said person did apply for insurance and if the other allegations of said claim are sustained, a record of insurance will be established in accordance with such finding. However, if it be determined that the evidence is not sufficient to establish as a fact that the said person applied for insurance as alleged, or determined that any insurance applied for as alleged would not be valid or not subject to reinstatement, or determined that the said person did not become permanently and totally disabled, or die at a time when the insurance would have been in force if insurance has been applied for, or, in case of death, if it be determined that there was no valid designation of beneficiary, the claimant will be so informed and will be notified that, unless he desires to appeal to the Administrator, a disagreement exists as to the matters in controversy as contemplated by the provisions of section 784 of Title 38, United States Code, as far as the Veterans Administration is concerned. Further, the claimant will be informed that an appeal may be taken from the decision to the Administrator of Veterans Affairs by giving notice in writing in accordance with Veterans Administration Regulations. The Chief Insurance Director or Deputy Chief Insurance Director will make all original determinations as to whether a person made valid application for insurance as alleged. The determination as to the validity of beneficiary designations, in death cases, will be made by the claims activity having jurisdiction over the insurance death claim.

31. The centerhead immediately preceding § 6.153 is amended to "Payment of Insurance Benefits to Minors Following Discharge From the Active Military, Naval or Air Service".

32. Section 6.153 is revised to read as follows:

§ 6.153 Payment of insurance benefits to minors following discharge from the active military, naval or air service.

The minority of a person who has been discharged from the active military, naval or air service of the United States will not preclude direct payment of either United States Government life insurance of National Service life insurance to such person. (Sec. 3202(a) of Title 38, United States Code.)

33. Sections 6.161 and 6.162 are revised to read as follows:

§ 6.161 Authority for the total disability provision for United States Government life insurance.

The total disability provision for United States Government life insurance authorized by section 311 of the World War Veterans' Act, 1924, as amended July 3, 1930, and section 748 of Title 38, United States Code is subject in all respects to the applicable provisions of Title 38, United States Code or any amendments thereto, and all United States Government life insurance regulations now in force or hereafter adopted, all of which together with the insured's application, report of physical examination, tender of premium, and the total disability provision shall constitute the contract.

§ 6.162 Application for total disability provision authorized by section 748 of Title 38, United States Code.

Applications for the total disability provisions for United States Government life insurance and the report of physical examination shall be on such forms as may be prescribed by the Veterans Administration, but any statement in writing sufficient to identify the applicant and the amount of insurance applied for, together with a report of a physical examination and remittance

sufficient to cover the first monthly premium will be sufficient as an application for the total disability provision.

34. In § 6.162a, the headnote and paragraphs (a) and (b) are amended to read as follows:

§ 6.162a Application for reinstatement and issue of the total disability provision pursuant to section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) Any person having a United States Government life insurance policy on a permanent plan with a total disability provision attached who surrendered such insurance prior to January 1, 1957, pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951 at a time when the total disability provision was in force, upon meeting the requirements for reinstatement of such insurance pursuant to the provisions of § 6.86 may at the same time reinstate the lapsed total disability provision without medical examination upon (1) written application signed by any such person, (2) payment of the required reserve, and (3) the full premium on the total disability provision for the month in which application is made.

(b) Any person having a United States Government life insurance policy on a permanent plan with a total disability provision attached who surrendered such insurance prior to January 1, 1957, pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951 at a time when the total disability provision was in force, upon meeting the requirements for issuance of United States Government life insurance pursuant to the provisions of § 6.2(a), may be issued at the same time a total disability provision without medical examination upon written application signed by the applicant and payment of the required premium: *Provided,* That the total disability provision issued pursuant to this paragraph shall not be in excess of the total disability insurance which lapsed at the time the life insurance was surrendered prior to January 1, 1957, pursuant to section 5 of the Servicemen's Indemnity Act.

35. Section 6.162b is revised to read as follows:

§ 6.162b Payment of total disability benefits on United States Government life insurance issued or reinstated pursuant to section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code.

Payment under the total disability provision attached to permanent plan insurance and issued or reinstated pursuant to section 5 of Public Law 23, 82d Congress, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code shall not be denied because the total disability of the applicant commenced prior to the date of his application for issuance or reinstatement of such provision. If the insured was totally disabled at the time of issuance or reinstatement of the total disability provision and (a) such disability had existed for less than 4 consecutive months, payment will commence in accordance with the provisions of § 6.164, and (b) if such disability had existed for at least 4 consecutive months, payment will commence on the first monthly anniversary date of total disability on or subsequent to the effective date of the issue or reinstatement of such insurance but in no event more than 6 months prior to receipt of due proof: *Provided,* That on insurance issued or reinstated pursuant to section 623 of the National Service Life Insurance Act, while the applicant is in active service, payment of total disability benefits shall not commence prior to the first monthly anniversary date of total disability on or after January 1, 1957.

36. In § 6.163, the headnote and introductory paragraph are amended to read as follows:

§ 6.163 Effective date of the total disability provision authorized by section 748 of Title 38, United States Code.

The total disability provision for United States Government life insurance will be effective:

37. In § 6.14, the headnote, introductory paragraph, and the 12th paragraph of the Total Disability Provision beginning "This provision is issued under authority of * * *" are amended to read as follows:

§ 6.164 Total disability provision for United States Government life insurance authorized by section 311 of the World War Veterans' Act, 1924, as amended July 3, 1930, and section 748 of Title 38, United States Code.

The total disability provision for United States Government life insurance authorized by section 311 of the World War Veterans' Act, 1924, as amended July 3, 1930 and section 748 of Title 38, United States Code, is as follows:

* * * * *

This provision is issued under authority of section 311 of the World War Veterans' Act, 1924, as amended July 3, 1930, and section 748 of Title 38, United States Code, and is subject to the applicable provisions of Title 38, United States Code, and amendments and supplements thereto, and to the Regulations of the Veterans Administration now in force or hereafter published. The terms and conditions of the policy which are not contrary to or inconsistent with the terms and conditions of this provision are hereby expressly made a part of this provision.

38. Section 6.165 is revised to read as follows:

§ 6.165 Disabilities deemed to be total.

Without prejudice to any other cause of disability, the loss of the use of both feet, or both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, or the loss of hearing of both ears, or the organic loss of speech, or becoming permanently helpless or permanently bedridden shall be deemed to be total disability for United States Government life insurance authorized by section 311 of the World War Veterans' Act, 1924, as amended July 3, 1930, and monthly income payments for any of these specifically enumerated causes of total disability may be paid from the first day of the fifth consecutive month of such continuous total disability. Organic loss of speech will mean the loss of the ability to express oneself, both by voice and whisper through the normal organs of speech if such loss is caused by organic changes in such organs. Where such loss exists, the fact that some speech can be produced through the use of an artificial appliance or other organs of the body will be disregarded. However, such anatomical and functional loss shall not be deemed to be a total disability under a total disability provision originally issued on and subsequent to December 15, 1936.

39. Sections 6.175, 6.176, 6.178, 6.179, 6.180, and 6.181 are revoked:

§ 6.175 Grace for payment of premiums; 5-year level premium term policy. [Revoked]

§ 6.176 Reinstatement; 5-year level premium term policy. [Revoked]

§ 6.178 Indebtedness at maturity of policy; 5-year level premium term policy. [Revoked]

§ 6.179 Recovery from disability; 5-year level premium term policy. [Revoked]

§ 6.180 Continuance of insurance after termination of total and permanent rating and award, where such termination is effective after the expiration of the term period. [Revoked]

§ 6.181 Grace period for payment of first premium payable on United States Government life insurance and total disability insurance after termination of a total and permanent disability insurance award and a total disability insurance award. [Revoked]

40. The centerhead immediately preceding § 6.185 is amended to "Premium Waiver on United States Government Life Insurance Under Section 622, National Service Life Insurance Act, as amended, and section 724 of Title 38, United States Code."

41. In § 6.185, the headnote and paragraphs (j), (k), and (l) are amended to read as follows:

§ 6.185 Premium waiver on United States Government life insurance under section 622 of the National Service Life Insurance Act, as amended, and section 724 of Title 38, United States Code.

* * * * *

(j) Waiver of premiums under this section shall not include the premiums due and payable on the total disability provision attached to such United States Government life insurance policy.

(k) During any period waiver of premium is effective under this section the insurance shall be nonparticipating.

(l) A 5-year level premium term policy on which premiums have been waived under this section during any portion of the term period shall have no reserve value.

42. Section 6.186 is revised to read as follows:

§ 6.186 Surrender of permanent plan policies of United States Government life insurance, in force for less than 1 year, under the provisions of section 5, Servicemen's Indemnity Act of 1951.

A permanent plan policy of United States Government life insurance in force for less than 1 year by payment or waiver of premiums shall not have a cash value. Such a policy which was not lapsed could be surrendered by the insured while in active service prior to January 1, 1957, with right of replacement pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act, or section 781 of Title 38, United States Code, upon written request therefor and upon complete surrender of the insurance with all claims thereunder.

43. The centerhead immediately preceding § 6.190 is amended to "Determination of Liability Under Sections 302 and 313, World War Veterans' Act, 1924, Sections 607 and 602(v)(2), National Service Life Insurance Act, 1940, as amended, and Sections 721 and 757 of Title 38, United States Code."

44. Section 6.190 is revised to read as follows:

§ 6.190 Establishment of committees on extra hazards of service.

There are hereby established in the Department of Insurance the necessary committees to make determinations on extra hazards of service (sections 302 and 313, World War Veterans' Act, 1924, sections 607 and 602(v)(2), National Service Life Insurance Act, 1940, as amended, and sections 721 and 757 of Title 38, United States Code) which will be in charge of chairmen who shall be responsible for the proper functioning of such committees. Each committee shall be composed of the chairman and such regular members, alternate members, and other personnel as may be found necessary for the purpose of executing the duties and functions assigned thereto.

45. Section 6.192 is revised to read as follows:

§ 6.192 Definition of "disease or injury traceable to the extra hazard of the military or naval services".

(a) In cases wherein, pursuant to the provisions of the War Risk Insurance Act and the amendments thereto or of the World War Veterans' Act and the amendments thereto or the United States Government life insurance provisions of Title 38, United States Code, a determination has been made that a disease or injury has been suffered or contracted in the active military or naval service during the period beginning April 6, 1917 and ending July 2, 1921, and notwithstanding such disease or injury the insured has been permitted under the provisions of said War Risk Insurance Act, World War Veterans' Act, or Title 38 of the United States Code to reinstate or to convert insurance into United States Government life insurance, the subsequent death or total permanent disability of the insured, if found to be traceable to the said disease or injury, shall, for the purpose of determining liability under section 302 of the World War Veterans' Act or section 757 of Title 38, United States Code, be held to be the result of disease or injury traceable to the extra hazard of the military or naval service.

(b) In other cases, disease or injury may be found to be traceable to the extra hazard of the military or naval service when it appears from the evidence that the said disease or injury was in fact caused by or is traceable to the performance of duty in the active military, naval, or air service (as that term is defined in section 101 of Title 38, United States Code).

46. Section 6.206 is revised to read as follows:

§ 6.206 Reconsideration of insurance claims where suits have terminated in favor of the Government.

Where suit has been brought against the United States under section 19 of the World War Veterans' Act, 1924, as amended, or section 784 of Title 38, United States Code, for the benefits of yearly renewable term insurance, automatic, or United States Government life insurance because of alleged total permanent disability, or total disability as defined in the total disability provision attached to United States Government life insurance policies, or under section 617 of the National Service Life Insurance Act of 1940, as amended, or section 784 of Title 38, United States Code, and judgment on the merits in favor of the Government has been entered, the claim will be reconsidered only where it is definitely shown that new and material evidence has been produced which was not presented to the court, or that manifest error was made.

(72 Stat. 1114; 38 U.S.C. 210)

47. In Part 8, §§ 8.0, 8.1, and 8.2 are revised to read as follows:

§ 8.0 Eligibility.

(a) *Applications for insurance under section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.* (1) Any person who, while in the active service on or after April 25, 1951, and prior to January 1, 1957, surrendered a permanent plan of National Service life insurance, which was not lapsed, for its cash value under the provisions of § 8.27 (a) or (b) or under § 8.114 if the policy had no cash value, shall be granted a new policy of National Service life insurance in accordance with § 8.110(a) provided a written application signed by the applicant and payment of the required premium are made on or after January 1, 1959, within the period set forth in subparagraph (3) of this paragraph and the other conditions of that subparagraph are met. Such insurance shall be granted without medical examination. If the applicant is mentally incompetent, the application for insurance under this subparagraph may be made only by the guardian (committee or conservator) and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

(2) Any person having National Service life insurance on the 5-year level premium term plan, the term of which expired while such person was in the active service after April 25, 1951, or within 120 days after separation from such active service, and in either case prior to January 1, 1957, shall be granted National Service life insurance on the 5-year level premium term plan in accordance with § 8.110(b): *Provided,* a written application signed by the applicant, payment of the required premium and evidence of good health satisfactory to the Administrator are submitted on or after January 1, 1959, within the period set forth in subparagraph (3) of this paragraph and the other conditions of that subparagraph are met.

(3) Any person whose permanent plan insurance was surrendered or whose term insurance expired under the conditions provided in this paragraph, and who had continuous indemnity protection from the surrender or expiry date to January 1, 1957, continuous active service from January 1, 1957, to January 1, 1959, and continuous active duty thereafter, may make application for insurance under this paragraph while on continuous active duty or within 120 days after separation from such service or duty. A person who reenters active service or duty on the date of separation or the following day shall be deemed to be in continuous active service or on continuous active duty.

(4) An application for insurance under this paragraph should be made on the form prescribed therefor, but any written statement which in substance meets the requirements of this paragraph may be considered an application.

(b) *Applications for insurance under section 722(a) of Title 38, United States Code.* (1) Any person who is released from active military, naval, or air service (as that term is defined in sec. 101 of Title 38, United States Code) under other than dishonorable conditions, on or after April 25, 1951, shall be granted National Service life insurance as provided in § 8.111 upon compliance with the following conditions:

(i) Written application signed by the applicant.

(ii) Proof, satisfactory to the Administrator, that the applicant is suffering from a service-connected disability (or disabilities) for which compensation is or would be payable, if 10 per centum or more in degree and except for which such person would be insurable according to the standards of good health established by the Administrator (§ 8.1).

(iii) Written application for such insurance must be submitted within 1 year from the date service connection of such disability is first determined by the Veterans Administration by a rating made subsequent to discharge: *Provided,* That if the applicant is shown by evidence satisfactory to the Administrator to have been mentally incompetent during any part of the 1-year period, application under this paragraph may be filed within 1 year after a guardian is appointed or

within 1 year after the removal of such mental incompetency as determined by the Administrator, whichever is the earlier date. If a guardian was appointed or the removal of such disability occurred before January 1, 1959, application under this paragraph may be made within 1 year after that date.

(iv) Payment of the required premium.

(2) An application for insurance under this paragraph should be made on the form prescribed therefor, but any written statement which in substance meets the requirements of this paragraph may be considered an application. If the applicant is mentally incompetent, the application may be made only by the guardian and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

(3) The words "dishonorable conditions" as used in this paragraph are defined in § 3.64 of this chapter.

(c) *Application for insurance issued under section 621 of the National Service Life Insurance Act, as amended.* Insurance heretofore issued under section 621 of the National Service Life Insurance Act is subject to the provisions of § 8.112 (a) and (c). No National Service life insurance shall be granted to any person under such section on or after January 1, 1957, unless prior to such date an acceptable application accompanied by proper and valid remittances or authorizations for payment of premiums (1) was received by the Veterans Administration, (2) was placed in the mails properly directed to the Veterans Administration, or (3) was delivered to an authorized representative of any of the uniformed services.

§ 8.1 Definition of good health.

The words "good health," when used in connection with insurance, mean that the applicant is, from clinical or other evidence, free from disease, injury, abnormality, infirmity, or residual of disease or injury to a degree that would tend to weaken or impair the normal functions of the mind or body or to shorten life.

§ 8.2 Effective date.

(a) *Effective date of insurance applied for under section 722(a) of Title 38, United States Code.* (1) The effective date of National Service life insurance issued under the provisions of section 722(a) of Title 38, United States Code, shall not be established in any event prior to April 25, 1951, nor prior to the date of entry into active service.

(2) Subject to the limitations in subparagraph (1) of this paragraph, the effective date of such insurance may be established upon written request of the applicant as follows:

(i) As of the date on which valid application and tender of premium are made.

(ii) As of the first day of the month in which valid application and tender of premium are made.

(iii) As of the first day of the month following the month in which valid application and tender of premium are made.

(iv) As of the first day of any month, but not more than 6 months prior to the month in which valid application and tender of premium are made: *Provided,* That there be paid (*a*) an amount equal to the full reserve on the insurance at the end of the month prior to the month in which application is made, and (*b*) the full premium on the amount of insurance for the month in which application is made.

(3) Unless otherwise specified by the applicant, the effective date of such National Service life insurance shall be established as of the date on which valid application and tender of premiums are made.

(b) *Effective date of insurance applied for under section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.* (1) The effective date of National Service life insurance issued under the provisions of section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code may be established upon written request of the applicant as follows:

(i) As of the date on which valid application and tender of premiums are made.

(ii) As of the first day of the month in which valid application and tender of premiums are made.

(iii) As of the first day of the month following the month in which valid application and tender of premiums are made.

(iv) As of the first day of any month, but not more than 6 months prior to the month in which valid application and tender of premiums are made: *Provided,* That there be paid (*a*) an amount equal to the full reserve on the insurance at the end of the month prior to the month in which application is made, and (*b*) the full premium on the amount of insurance for the month in which application is made.

(2) Unless otherwise specified by the applicant, the effective date of such National Service life insurance shall be established as of the date on which valid application and tender of premiums are made.

48. Section 8.7 is revised to read as follows:

§ 8.7 Payment of insurance premiums by mail.

When it appears by proof satisfactory to the Administrator of Veterans Affairs that the person to whom National Service life insurance has been granted, or any person acting on his behalf has deposited in the mail within the grace period allowed by Veterans Administration regulation for payment of a premium an envelope properly addressed to the Veterans Administration, Washington 25, D.C., or any field station of the Veterans Administration, containing money, check, draft, or money order, in payment of premium, such insurance will not lapse for a nonpayment of such premium within the grace period: *Provided,* That any such check or draft is paid on presentation for payment or the conditions of § 8.7a are met.

49. In § 8.8, the introductory paragraph and paragraphs (a) and (b) are amended to read as follows:

§ 8.8 Deduction of insurance premiums from compensation, retirement pay, or pension.

The insured under a National Service life insurance policy which is not lapsed may authorize the monthly deduction of premiums from disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension that may be due and payable to him under any laws administered by the Veterans Administration in accordance with the following provisions.

(a) The authorization must be in writing over the signature of the insured, or his legal representative, and, whenever practicable, on such forms as may be prescribed by the Veterans Administration. If insured is incompetent and has no legal representative and has a wife to whom benefits are being paid pursuant to section 3202(f) of Title 38, United States Code, and § 13.201 of this chapter, she may authorize payment of insurance premiums through the deduction system. If insured is incompetent and has no legal representative and an institutional award has been made in his behalf, the authorization may be executed by the Manager of the field station in which the insured is hospitalized or receiving domiciliary care, and in appropriate cases by the chief officers of State hospitals or other institutions to whom similar awards may have been approved.

(b) The monthly disability compensation, death compensation, dependancy and indemnity compensation, retirement pay, disability pension, or death pension so due and payable must be equal to, or in excess of, the amount of the insurance premium figured on a monthly basis.

50. Sections 8.9, 8.10, and 8.11 are revised to read as follows:

§ 8.9 Authorization for deduction of insurance premiums from compensation, retirement pay, or pension.

The authorization for deductions from disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension, to be acceptable for the payment of insurance premiums, must be executed and mailed or otherwise delivered to the Veterans Administration while the insurance is not lapsed. Such an authorization will be effective against the benefit payment for the month in which it is mailed or otherwise delivered to the Veterans Administration, unless the insured elects to have the authorization become effective against the benefit payment for a succeeding month. However, the deduction made from the benefit payment for the month in which the authorization becomes effective shall be for the insurance premium due in the succeeding calendar month. When premium deductions are authorized in accordance with the provisions of Veterans Administration regulations, the Veterans Administration will

make monthly deductions from the benefit payment due and payable to the insured of an amount sufficient to pay the monthly insurance premium. Such deductions will continue so long as the benefit payment due and payable to the insured is sufficient to pay the monthly insurance premium or until the authorization is revoked by the veteran or otherwise terminated.

§ 8.10 Premiums to be deducted from compensation, retirement pay, or pension treated as paid for purpose of preventing lapse.

When premium deductions are authorized by the insured under National Service life insurance, in accordance with the provisions of Veterans Administration regulations, the insurance premium will be treated as paid for the purpose of preventing lapse of the insurance, although such deduction is not in fact made, if upon the due date of the premium there is due and payable to the insured an amount of disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension sufficient to provide the payment. Any premium authorized to be deducted from such compensation, retirement pay, or pension, due and payable to the insured and not actually paid, shall be deducted from the amount of such current compensation, retirement pay, or pension that may become due and payable to the insured. The amounts so deducted for premiums shall, except as otherwise provided in §§ 8.102 and 8.103, be deposited and covered into the Treasury to the credit of the National Service Life Insurance Fund.

§ 8.11 Termination of the authorization to deduct insurance premiums from compensation, retirement pay, or pension.

Deduction of insurance premiums on National Service life insurance shall cease and the authorization shall terminate if the disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension becomes insufficient to provide the premium, or if such compensation, retirement pay, or pension is no longer due and payable to the insured. If authorization was executed by the Manager of a Veterans Administration hospital or domiciliary or chief officer of a State hospital or other institution to make deductions from an institutional award, the authorization will cease and terminate at the termination of the institutional award, and if subsequent premiums are to be paid by deduction from monthly benefit payments, another authorization must be executed by the insured or his legal representative or his wife. (See § 8.8(a)). The insurance shall lapse after the termination or cancellation of the authorization to deduct premiums from such compensation, retirement pay, or pension, unless the premium be otherwise paid within the grace period. The insured will be notified, by letter directed to his last address of record, of the termination of the authorization to deduct premiums; but the failure to give such notice or the failure to receive such notice shall not prevent lapse of the insurance.

51. In § 8.18, paragraph (b) is amended to read as follows:

§ 8.18 Lapse while insured is in active military or naval service. National Service life insurance will lapse and terminate while the insured is in the active military or naval service of the United States:

* * * * *

(b) If the service department shall discontinue the allotment and premium is not otherwise paid prior to expiration of the grace period.

52. Section 8.20 is revoked:

§ 8.20 Nonlapse of insurance during active service prior to date of enactment of Public Law 589, 79th Congress. [Revoked]

53. In § 8.22, paragraphs (a) and (b) are amended to read as follows:

§ 8.22 Reinstatement of National Service life insurance.

(a) *Reinstatement of National Service life insurance except insurance reinstated pursuant to section 623 of the National Service Life Insurance Act or Section 781 of Title 38, United States Code.* Subject to the National Service life insurance provisions of Title 38, United States Code, and Veterans Administration regulations issued thereunder, any insurance which has lapsed or may hereafter lapse and which has not been surrendered for a cash value or for paid-up insurance may be reinstated upon written application signed by the applicant, and, except as hereinafter provided in this paragraph, upon payment of all premiums in arrears, with interest from their several due dates, provided such applicant at the time of application and tender of premiums is in the required state of health as shown in § 8.23 (a) or (b), whichever is applicable, and submits evidence thereof at the time of application and tender of premiums as may be satisfactory to the Administrator of Veterans Affairs. Interest on premiums in arrears shall be at the rate of 5 per centum per annum, compounded annually, to the first monthly premium due date after July 31, 1946, and thereafter at the rate of 4 per centum per annum, compounded annually: *Provided,* That no interest on premiums in arrears will be required if reinstatement is effected within 3 months from the due date of the premium in default. The payment or reinstatement of any indebtedness against any policy must be made, and if such indebtedness with interest exceeds the reserve of the policy at the time of application for reinstatement thereof, then the amount of such excess shall be paid by the applicant as a condition of the reinstatement of the indebtedness and of the policy. A lapsed National Service life insurance policy which is in force under extended term insurance may be reinstated without health statement or other medical evidence, if application and tender of premiums with the required interest are made not less than 5 years prior to the date such extended insurance would expire. In any case in which the extended insurance under an endowment policy provides protection to the end of the endowment period, such policy may be reinstated upon application and payment of the premiums with the required interest, and health statement or other medical evidence will not be required. National Service life insurance on the level premium term plan may be reinstated by written application of the insured accompanied by evidence of insurability and tender of two monthly premiums, one for the month of lapse, the other for the premium month in which reinstatement is effected; but such insurance when reinstated without payment of all premiums in arrears with interest shall have no reserve value. Application for reinstatement of level premium term insurance accompanied by evidence of insurability and tender of premiums must be submitted prior to the expiration of the 5-year term period, except as provided in § 8.85.

(b) *Applications for reinstatement of insurance pursuant to section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.* (1) Any person who, while in the active service on or after April 25, 1951, and prior to January 1, 1957, surrendered a permanent plan policy of National Service life insurance which was not lapsed, for its cash value under the provisions of § 8.27(a) or (b), or under § 8.114 if the policy had no cash value, upon written application made by any such person on or after January 1, 1959, within the period set forth in subparagraph (2) of this paragraph and upon meeting the other conditions of that subparagraph, may reinstate such surrendered National Service life insurance (or any portion thereof in multiples of $500, not less than $1,000) without medical examination upon payment of (i) an amount required to provide the full reserve of the insurance at the end of the month prior to the month in which application is made and (ii) the full premium on the amount of insurance for the month in which application is made. If the applicant is mentally incompetent the application for reinstatement under this paragraph may be made only by the guardian (committee or conservator), and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

(2) Any person whose permanent plan insurance was surrendered under the conditions provided in this paragraph, and who had continuous indemnity protection from the date of surrender to January 1, 1957, continuous active service from January 1, 1957, to January 1, 1959, and continuous active duty thereafter, may make application for reinstatement under this paragraph while on continuous active duty or within 120 days after separation from such service or duty. A person who reenters active service or duty on the date of separation or the following day shall be deemed to be in continuous active service or on continuous active duty.

54. Sections 8.23 and 8.24 are revised to read as follows:

§ 8.23 Health requirements.

National Service life insurance on any plan may be reinstated if application and tender of premiums are made:

(a) Within 3 premium months including the premium month for which the unpaid premium was due, provided the applicant be in as good health on the date of application and tender of premiums as he was on the due date of the premium in default and furnishes evidence thereof satisfactory to the Administrator.

(b) After expiration of the 3-month period mentioned in paragraph (a) of this section, provided applicant is in good health (§ 8.1) on the date of application and tender of premiums and furnishes evidence thereof satisfactory to the Administrator of Veterans Affairs.

§ 8.24 Application and medical evidence.

The applicant for reinstatement of National Service life insurance, during his lifetime and before becoming totally disabled, must submit a written application signed by him and furnish evidence of health as required in § 8.23 at the time of application satisfactory to the Administrator of Veterans Affairs and upon such forms as the Administrator shall prescribe or otherwise as he shall require. Applicant's own statement of comparative health may be accepted as proof of insurability for the purpose of reinstatement under § 8.23(a), but, whenever deemed necessary in any such case by the Administrator, report of physical examination may be required. Applications for reinstatement submitted after expiration of the applicable period mentioned in § 8.23(a) must be accompanied by report of physical examination made in accordance with the provisions of § 8.64: *Provided,* That, if the insurance becomes a claim after the tender of the amount necessary to meet reinstatement requirements but before full compliance with the requirements of this section, and the applicant was in a required state of health at the date that he made the tender of the amount necessary to meet reinstatement requirements, and that there is satisfactory reason for his non-compliance, the Director, Accounts and Underwriting Service, in Central Office; Assistant Managers for Insurance, VA Centers, Denver, Colorado, and St. Paul, Minnesota, and Director, Insurance Service in the District Office in Philidelphia, Pennsylvania, may, if the applicant be dead, waive any or all requirements of this section (except payment of the necessary premiums), or, if the applicant be living, allow compliance with this section as of the date the required amount necessary to reinstate was received by the Veterans Administration.

55. In § 8.46, paragraph (a) is amended to read as follows:

§ 8.46 Beneficiary designations.

(a) The insured shall have the right to designate as beneficiary any person or persons, firm, corporation, or other legal entity (including the estate of the insured), individually or as trustee, for insurance maturing on or after August 1, 1946: *Provided,* That as to any insurance which matured prior to August 1, 1946, designated beneficiaries shall be restricted to persons within the permitted class of designated beneficiaries as follows: Wife (husband), child (including an adopted child, stepchild, illegitimate child), parent (including parent through adoption, stepparent, and persons who stood in loco parentis to the insured for a period of not less than 1 year prior to entry into active service), brother or sister (including those of the halfblood and through adoption) of the insured.

56. In § 8.48, the introductory paragraph is amended to read as follows:

§ 8.48 Class and order of payment to other than designated beneficiary.

If no beneficiary was designated by the insured for insurance which matured prior to August 1, 1946, or if the designated beneficiary of such insurance did not survive the insured or dies or has died prior to completion of payment of the installments certain, the installments of insurance remaining unpaid shall be paid to persons in the permitted class of beneficiaries and in the order named:

57. The centerhead immediately preceding § 8.49 is amended to "Settlement Where Insurance Matured Prior to August 1, 1946."

58. Sections 8.49 and 8.50 are revised to read as follows:

§ 8.49 Limitations on entitlement and payment.

(a) Any payment of insurance made to a person represented by the insured to be within the permitted class of beneficiaries shall be deemed to have been properly made and to satisfy fully the obligations of the United States under such insurance policy to the extent of such payments. The following provisions are applicable only to insurance which matured prior to August 1, 1946. No person shall have a vested right to any installment or installments of the insurance, and no installment of insurance shall be paid to the heirs, creditors, or legal representatives as such of the insured or of any beneficiary except as provided in § 8.60. If no person within the permitted class survives to receive the insurance or any part thereof, no payment of the unpaid installments shall be made, except that if the reserve of a converted policy, together with dividend accumulations, less any indebtedness under such policy, exceeds the amount paid to the beneficiaries, such excess shall be paid to the estate of the insured unless the estate of the insured would escheat under the laws of his place of residence, in which event no payment shall be made.

(b) When the amount of an individual monthly payment is less than $5, such amount may in the discretion of the Administrator, be allowed to accumulate without interest and be disbursed annually.

§ 8.50 Payment to first beneficiary where insurance matured prior to August 1, 1946.

Upon due proof of the death of the insured prior to August 1, 1946, and while a National Service life insurance policy is in force, the monthly installments without interest, which have accrued since the death of the insured (the first installment being due on the date of the death of the insured), and the monthly installments which thereafter become payable in accordance with the provisions of the policy shall be paid, as provided in § 8.75, to the beneficiary or beneficiaries entitled.

59. Sections 8.60 and 8.61 are revised to read as follows:

§ 8.60 Taxation and exemption.

(a) Payments of National Service life insurance as such are exempt from taxation, but such exemption does not extend to any property purchased in part or wholly out of such payments. Payments of insurance to a beneficiary under a National Service life insurance policy are exempt from claims of creditors, and are not liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary.

(b) The exemption shall apply against the United States or any agency thereof: *Provided,* That except as to dividends being held to the credit of the insured for the payment of premium under the provisions of Public Law 36, 82d Congress, or section 707 of Title 38, United States Code, the United States shall be entitled to collect by setoff or otherwise out of benefits, payable to any beneficiary under a National Service life insurance policy, the amount of any indebtedness due the United States by such beneficiary because of overpayments or illegal payments made to such beneficiary under laws administered by the Veterans Administration: *Provided further,* That in the settlement of any claim under a National Service life insurance policy, the United States shall be entitled to deduct the amount of unpaid premiums, or loans, or interest on such premiums or loans; or indebtedness arising from overpayments of dividends, refunds, loans, or other insurance benefits; or any other indebtedness existing under the particular insurance contract.

(c) Effective January 1, 1958, payments of insurance to a beneficiary under a National Service life insurance policy shall be subject to levy for taxes due the United States by such beneficiary (sec. 3101(c) of Title 38, United States Code.

§ 8.61 Insurance forfeiture.

Any person guilty of mutiny, treason, spying, or desertion, or who, because of conscientious objections, refuses to perform service in the Armed Forces of the United States or refuses to wear the uniform of such forces, shall forfeit all rights to insurance. No insurance shall be payable for death inflicted as a lawful punishment for crime or for military or naval offense, except when inflicted by an enemy of the United States; but the cash surrender value, if any, of such insurance on the date of death of the insured shall be paid to the designated beneficiary, if living, or otherwise to the beneficiary or beneficiaries within the permitted class in the order specified in

section 716(b) of Title 38, United States Code.

60. Sections 8.63, 8.64, 8.65, 8.66, 8.69, and 8.70 are revised to read as follows:

§ 8.63 Refund of premiums in fraud cases.

Where National Service life insurance is canceled or voided for fraud and notice thereof is mailed after March 16, 1954, any premiums paid on such insurance for any period subsequent to 2 years after the date insurance was issued, reinstated, or converted because of such fraud shall be refunded without interest. On antedated policies the date of issue or conversion for the purpose of this section is the due date of the first full premium. The amount of any dividends, loan, or other insurance payment made as a result of the fraudulent issue, reinstatement, or conversion shall be deducted from such refund. The refund shall be made to the insured, if living, otherwise to the designated beneficiary; or, if no designated beneficiary survives, to the insured's estate.

§ 8.64 Examination of applicants for insurance or reinstatement.

Where physical or mental examination is required of an applicant for National Service life insurance or of an applicant for reinstatement of National Service life insurance, such examination may be made by a medical officer of the United States Army, Navy, Air Force, or Public Health Service, or may be made free of charge to him by a full-time or part-time salaried physician at a regional office or hospital of the Veterans Administration. Such examination may also be made, at the applicant's own expense, by a physician duly licensed for the practice of medicine by a State, Territory of the United States, or the District of Columbia, or by a duly licensed osteopathic physician who is a graduate of a recognized and approved college of osteopathy and who is listed in the current directory of the American Osteopathic Association. Such examination may be made by a physician or osteopath who is not related to the applicant by blood or marriage, associated with him in business, or pecuniarily interested in the issuance or reinstatement of the policy. Examinations made in a foreign country by a physician duly licensed for the practice of medicine and otherwise acceptable may be accepted if submitted through the American consul. The Administrator of Veterans Affairs may require such further medical examination or additional medical evidence as may be deemed necessary and proper to establish the physical and mental condition of the applicant at the time of the application.

§ 8.65 Examination in connection with total disability benefits.

Physical examination in connection with claim for total disability benefits may be made by a medical officer of the United States Army, Navy, Air Force, or Public Health Service, or may be made at Government expense by a full-time or part-time salaried physician at a regional office or hospital of the Veterans Administration. If an insured is unable to travel, because of physical or mental condition, the Manager of a regional office or hospital may, on his own initiative or at the request of the insurance activity concerned, authorize at Government expense examination at the residence of the insured. The Administrator of Veterans Affairs may require such further medical examination or such additional medical evidence as may be deemed necessary and proper to establish the physical and mental condition of the insured.

§ 8.66 Expenses incident to examination for insurance purposes.

Necessary transportation expenses incident to physical or mental examinations for insurance purposes at regional offices or hospitals shall be furnished when the insured is ordered to report for examination at the specific request of the Director, Accounts and Underwriting Service or Insurance Claims Service in Central Office; Assistant Managers for Insurance, VA Centers Denver, Colorado, and St. Paul, Minnesota, and Director, Insurance Service in the District Office in Philadelphia, Pennsylvania, or the Manager of a regional office or hospital: *Provided*, Such expenses will be borne by the United States and will be paid from the applicable appropriation of the Department of Medicine and Surgery. Transportation, meal, and lodging requests in connection with reporting to and returning from the place of examination may be furnished the applicant, or the applicant may travel at his own expense and claim reimbursement for such travel on a mileage basis, provided prior authority has been given for the travel. Travel incident to such an examination by salaried employees of the Veterans Administration will be in accordance with the Standardized Government Travel Regulations. If such an examination is made by a medical examiner on a fee basis, payment will be made at a fee not in excess of the schedule of fees in effect and approved by the Veterans Administration for medical and professional services in the State in which the examination is made. Where no approved State fee schedule is in effect or where a fee for the type of examination authorized is not listed in the approved State fee schedule in effect, such examinations will be furnished at a fee not in excess of that listed in the "Guide for Charges for Medical and Ancillary Services" of the Department of Medicine and Surgery in effect at the time the examination is authorized. If the particular examination is not covered by a schedule in effect and/or the said guide, a fee not in excess of what is reasonable and customarily charged in the community concerned may be allowed.

§ 8.69 Definition of "disease or injury traceable to the extra hazards of the military or naval service."

A disease or injury may be found to be traceable to the extra hazards of the military or naval service when it appears from the evidence that the said disease or injury was in fact caused by, or is traceable to, the performance of duty in the active military, naval, or air service (as that term is defined in section 101 of Title 38, United States Code).

§ 8.70 Claims alleging insurance contract where there is no application for insurance on file.

In those cases where claim is made alleging that a person made valid application for National Service life insurance, and that the insurance is subject to reinstatement or a waiver of payment of premiums is in order, or that the insurance matured by reason of the death of the insured at a time when the insurance was in force, and that there was a valid designation of beneficiary, and where there is no application for insurance on file, the claimant will be required to submit all available evidence concerning the alleged application for insurance in such manner and on such forms as may be deemed necessary. The evidence submitted by the claimant and the evidence as disclosed by records in possession of the Government relative to the question as to whether the person made a valid application for insurance will be considered and, if found sufficient to establish as a fact that the said person did apply for insurance and if the other allegations of said claim are sustained, a record of insurance will be established in accordance with such finding. However, if it be determined that the evidence is not sufficient to establish as a fact that the said person applied for insurance as alleged, or determined that any insurance applied for as alleged would not be valid or not subject to reinstatement, or determined that the said person did not die at a time when the insurance would have been in force if insurance had been applied for, or, in case of death, if it be determined that there was no valid designation of beneficiary, the claimant will be so informed and will be notified that, unless he desires to appeal to the Administrator, a disagreement exists as to the matters in controversy as contemplated by the provisions of section 784 of Title 38, United States Code, as far as the Veterans Administration is concerned. Further, the claimant will be informed that an appeal may be taken from the decision to the Administrator of Veterans Affairs by giving notice in writing in accordance with Veterans Administration regulations. The Chief Insurance Director or the Deputy Chief Insurance Director will make all original determinations as to whether a person made valid application for insurance as alleged. The determination as to the validity of beneficiary designations, in death cases, will be made by the claims activity in the office having jurisdiction over the insurance death claim.

61. In § 8.71, the introductory paragraph is amended to read as follows:

§ 8.71 Parents, brothers, and sisters of illegitimates.

If the insured was born an illegitimate and not legitimatized before his death, the terms "parent," "father," "mother," "brother," and "sister" employed in the National Service Life Insurance Act, as amended, and the National Service life insurance provisions of Title 38, United

States Code, shall include as to relationship by consanguinity:

62. In § 8.75, the introductory paragraph is amended to read as follows:

§ 8.75 Mode of payment where insurance matured prior to August 1, 1946.

National Service life insurance which matured prior to August 1, 1946, shall be payable in the following manner:

63. In § 8.77, paragraph (b)(2) is amended to read as follows:

§ 8.77 Election of optional settlement by beneficiary.

* * * * *

(b) * * *

(2) Except as provided below in this subparagraph, a change in the mode of settlement is not authorized in any case in which payment has commenced, and settlement under any one of the options shall be in full and complete discharge of all liability under the contract: *Provided,* That where payments were commenced on or after September 30, 1944, but before the beneficiary was advised of the right of election, change in the mode of settlement may be effected if such beneficiary so elects within a reasonable period, ordinarily not more than 60 days, after notice has been sent regarding optional settlement: *Provided further,* That in any case in which payments were commenced prior to September 30, 1944, the beneficiary, whether or not the first beneficiary, may, within 2 years after August 1, 1946, elect a refund life income (option 4) payable in monthly installments adjusted as of the date of maturity of the insurance and based upon the age of the original payee at such maturity date, credit being allowed for payments made under the present mode of settlement.

64. In § 8.79, the headnote and introductory paragraph are amended to read as follows:

§ 8.79 Optional settlements on insurance issued under the provisions of the National Service Life Insurance Act of 1940, as amended, prior to April 26, 1951.

The optional settlements under a National Service life insurance policy maturing on or after August 1, 1946, are as follows:

65. In § 8.80a, the headnote and introductory paragraph are amended to read as follows:

§ 8.80a Payment to a beneficiary where the monthly installment of insurance, issued under the National Service Life Insurance Act, as amended prior to April 26, 1951, is less than $10 under the option selected.

Where payment is to be made in 12 or 24 monthly installments (see § 8.77(a)(5)), the amount of each monthly installment will be paid in accordance with the following table:

66. Section 8.81 is revised to read as follows:

§ 8.81 Maturity by death during total disability of less than 6 months' duration.

In the event of the death of the insured within 6 months after becoming totally disabled, insurance will be deemed in force if such disability commenced (a) subsequent to the date of application for insurance, (b) while the insurance was in force under premium-paying conditions, and (c) prior to the insured's 60th birthday, and continued without interruption until the insured's death: *Provided,* That proof of the foregoing facts, satisfactory to the Administrator of Veterans Affairs, is filed by the beneficiary with the Veterans Administration within 1 year after the insured's death: *Provided further,* That if the beneficiary be insane or a minor, the proof of such facts may be filed within 1 year after removal of such disability: *And provided further,* That the amount of the unpaid premiums shall be a lien against and deducted from the proceeds of the insurance.

67. Section 8.84 and the centerhead immediately above which reads "Automatic Extension of 5-Year Level Premium Term Insurance" are revoked:

§ 8.84 Five-year level premium term insurance as extended by Public Law 118, 79th Congress. [Revoked]

68. Section 8.93 is revised to read as follows:

§ 8.93 Selection of optional settlements for minors and incompetents.

When an optional mode of settlement of National Service life insurance heretofore or hereafter matured is available to a beneficiary who is a minor or incompetent, such option may be exercised by his fiduciary, person qualified under section 14 of Title 25, United States Code, or person recognized by the Administrator as having custody of the person or the estate of such beneficiary, and the obligation of the United States under the insurance contract shall be fully satisfied by payment of benefits in accordance with the mode of settlement so selected.

69. Section 8.95 is revised to read as follows:

§ 8.95 Authority for the total disability income provision for National Service life insurance.

The total disability income provision for National Service life insurance authorized by section 602(v) of the National Service Life Insurance Act, 1940, as amended, and section 715 of Title 38, United States Code, is subject in all respects to the applicable provisions of Title 38, United States Code, or any amendments thereto and all National Service life insurance regulations now in force or hereafter adopted, all of which together with the insured's application, evidence of good health, tender of premium, and the total disability income provision shall constitute the contract.

70. In § 8.96, paragraph (a) is amended to read as follows:

§ 8.96 Application for total disability income provision and application for reinstatement thereof.

(a) Application for the total disability income provision authorized by Public Law 85–678 and section 715 of Title 38, United States Code, and the evidence of good health should be on such forms as may be prescribed by the Veterans Administration, but any statement in writing sufficient to identify the applicant and the amount of insurance applied for, together with evidence of good health satisfactory to the Administrator and remittance to cover the first monthly premium, will be sufficient as an application for the total disability income provision. Effective November 1, 1958, total disability insurance with benefits at the rate of $10 per month will be granted for each $1,000 of National Service life insurance in force in full multiples of $500, but not to exceed the amount of life insurance, other than extended insurance, in force under the policy at the time of the application, upon compliance with the above requirements: *Provided,* That the total disability income provision authorized by Public Law 85–678 and section 715 of Title 38, United States Code, shall not be added to a National Service life insurance policy containing the total disability income provision issued under section 602(v) of the National Service Life Insurance Act, as amended, August 1, 1946, except (1) upon complete surrender of such total disability income provision with all claims thereunder (except as to rights which have matured for a period prior to the surrender), (2) written application signed by the applicant, (3) proof, satisfactory to the Administrator, that the applicant is in good health, and (4) payment of the first monthly premium determined by the Administrator to be required in such cases: *Provided further,* That no total disability income provision shall be issued on insurance granted under the provisions of section 620 of the National Service Life Insurance Act, as amended, or section 722(a) of Title 38, United States Code.

71. In § 8.96a, the headnote and paragraphs (a), (b), and (d) are amended to read as follows:

§ 8.96a Application for reinstatement and issue of the total disability income provision pursuant to section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) Any person having a National Service life insurance policy on a permanent plan with a total disability income provision attached who surrendered such insurance prior to January 1, 1957, pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951 at a time when the total disability income provision was in force, upon meeting the requirements for reinstatement of such insurance pursuant to the provisions of § 8.22(b) may at the same time reinstate the lapsed total disability income provision without medical examination upon (1) written application

signed by any such person, (2) payment of the required reserve and (3) the full premium on the total disability income provision for the month in which application is made.

(b) Any person having a National Service life insurance policy on a permanent plan with a total disability income provision attached who surrendered such insurance prior to January 1, 1957, pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951 at a time when the total disability income provision was in force, upon meeting the requirements for issuance of National Service life insurance pursuant to the provisions of § 8.0(a)(1) may be issued at the same time a total disability income provision without medical examination upon written application signed by the applicant and payment of the required premium: *Provided,* That the total disability income provision issued pursuant to this paragraph shall be on the same terms and conditions and shall not be in excess of the total disability insurance which lapsed at the time the life insurance was surrendered prior to January 1, 1957, pursuant to section 5 of the Servicemen's Indemnity Act of 1951.

* * * * *

(d) Where no total disability income provision was attached to National Service life insurance surrendered prior to January 1, 1957, under the provisions of section 5 of the Servicemen's Indemnity Act of 1951, such provisions may be added to National Service life insurance issued or reinstated under § 8.0(a)(1) or § 8.22 (b) upon compliance with the provisions of § 8.96(a).

72. Section 8.96b is revised to read as follows:

§ 8.96b Payment of total disability benefits on National Service life insurance issued or reinstated pursuant to section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code.

Payment under the total disability income provision (§ 8.98) attached to permanent plan insurance and issued or reinstated pursuant to section 5 of Public Law 23, 82d Congress, section 623 of the National Service Life Insurance Act, or section 781 of Title 38, United States Code, shall not be denied because the total disability of the applicant commenced prior to the date of his application for issuance or reinstatement of such provision. If the insured was totally disabled at the time of issuance or reinstatement of the total disability income provision and (a) such disability had existed for less than 6 consecutive months, payment will commence in accordance with the provisions of § 8.98, and (b) if such disability had existed for at least 6 consecutive months, payment will commence on the first monthly anniversary date of total disability on or subsequent to the effective date of the issue or reinstatement of such insurance but in no event more than 6 months prior to receipt of required proof: *Provided,* That on insurance issued or reinstated pursuant to section 623 of the National Service Life Insurance Act, while the applicant is in active service, payment of total disability income benefits shall not commence prior to the first monthly anniversary date of total disability on or after January 1, 1957.

73. In § 8.97, the headnote and paragraph (c) are amended to read as follows:

§ 8.97 Effective date of the total disability income provision authorized by Public Law 85–678 and section 715 of Title 38, United States Code.

The total disability income provision will be made effective as follows:

* * * * *

(c) No protection shall be granted on the total disability income provision issued under Public Law 85–678 and section 715 of Title 38, United States Code unless the total disability commenced on or after November 1, 1958, and subsequent to the date of application for such provision or the effective date thereof, whichever is later.

74. In § 8.99, the headnote and introductory paragraph are amended to read as follows:

§ 8.99 Total disability income provision for National Service life insurance authorized by Public Law 85–678 and section 715 of Title 38, United States Code.

The total disability income provision for National Service life insurance authorized by Public Law 85–678 and section 715 of Title 38, United States Code, is as follows:

75. Section 8.99a is revised to read as follows:

§ 8.99a Premium rates for the total disability income provision authorized by Public Law 85–678 and section 715 of Title 38, United States Code.

The premium rates for the total disability income provision authorized by Public Law 85–678 and section 715 of Title 38, United States Code, are published in VA Pamphlets 90–5A and 90–12.

76. Section 8.102 is revised to read as follows:

§ 8.102 Crediting of premiums to and payment of benefits from National Service life insurance appropriation.

(a) All premiums collected for insurance granted or reinstated pursuant to the second sentence of section 602(c)(2) or the first proviso of section 602(y)(1) of the National Service Life Insurance Act, as amended, August 1, 1946, shall be credited directly to the National Service life insurance appropriation.

(b) Any payment of benefits on insurance granted or deemed to have been granted pursuant to the foregoing provisions of the National Service Life Insurance Act, as amended; section 602(c)(3) of the act, as amended; section 602(p) of the act, as amended (second sentence); and, any payment of benefits on insurance continued in force as provided in section 602(m)(2) of the act, as amended, shall be made directly from the National Service life insurance appropriation.

77. In § 8.108, the introductory paragraph and Note immediately following paragraph (q) are amended and new paragraphs (o), (p) and (q) are added as follows:

§ 8.108 Forms of policies.

The forms of policies of insurance, listed in paragraphs (a) through (q) of this section, are hereby prescribed for use in granting National Service life insurance applied for in accordance with the provisions of the National Service Life Insurance Act of 1940, and the National Service life insurance provisions of Title 38, United States Code, amendments and supplements thereto, and Veterans Administration regulations promulgated pursuant thereto. Contracts of insurance authorized to be made in accordance with the terms and conditions set forth in the forms and policy plans listed in paragraphs (a) through (q) of this section, are subject in all respects to the applicable provisions of Title 38, United States Code, amendments and supplements thereto, and all Veterans Administration regulations promulgated pursuant thereto, all of which together with the insured's application, required evidence of health, including physical examination, if required, and tender of premium shall constitute the contract: *Provided,* any such policy that has been or is hereafter issued or reinstated under any provision of the law which provides for premiums being credited to other than the National Service Life Insurance Fund shall not participate in any gains or savings of such fund.

* * * * *

(o) Limited convertible five-year level premium term plan (VA Forms 9–4408 and 9–4412).

(p) Ordinary life plan; Twenty payment life plan; and Thirty payment life plan; (VA Forms 9–4409 and 9–4412).

(q) Twenty year endowment plan; Endowment plan maturing at age 60; and Endowment plan maturing at age 65; (VA Forms 9–4410 and 9–4412).

NOTE: Policy plans in paragraphs (g) through (q) of this section are nonparticipating.

78. The centerhead immediately preceding § 8.110 is amended to "National Service Life Insurance Issued On or After April 25, 1951."

79. Section 8.110 is revised to read as follows:

§ 8.110 National Service life insurance issued pursuant to section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code.

(a) National Service life insurance on a permanent plan, issued pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act, or section 781 of Title 38, United States Code, shall be issued on the same plan and under the same terms and conditions as the National Service life insurance which was surrendered: *Provided,*

That waiver of premiums under section 602(n) of the National Service Life Insurance Act, as amended, or section 712 of Title 38, United States Code, shall not be denied because the total disability of the applicant commenced prior to the date of his application for such insurance. The amount of permanent plan National Service life insurance issued pursuant to said section 5, section 623, or section 781 shall not be in excess of the amount of insurance which was surrendered.

(b) National Service life insurance on the 5-year level premium term plan, issued pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code, shall be issued under the same terms and conditions as the National Service life insurance 5-year level premium term policy which expired. The amount of 5-year level premium term insurance issued pursuant to said section 5, section 623, or section 781 shall not be in excess of the amount of term insurance which expired.

(c) The amount of insurance granted under said section 5, section 623 or section 781, plus the amount of any other insurance (National Service life—United States Government life—War Risk) in force under premium-paying conditions or as paid-up or extended insurance, shall not exceed $10,000.

80. Section 8.114 is revised to read as follows:

§ 8.114 Surrender of permanent plan policies of National Service life insurance, in force for less than 1 year, under the provisions of section 5, Servicemen's Indemnity Act of 1951.

A permanent plan policy of National Service life insurance in force for less than 1 year by payment or waiver of premiums shall not have a cash value. Such a policy which was not lapsed could be surrendered by the insured while in active service prior to January 1, 1957, with right of replacement pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code, upon written request therefor and upon complete surrender of the insurance with all claims thereunder.

81. Section 8.115 and the centerhead immediately above which reads "Applications for Government Life Insurance Under Section 623, National Service Life Insurance Act, Made by Person in Active Service on January 1, 1957, But Filed Prior to That Date" are revoked:

§ 8.115 Applications for National Service life insurance and United States Government life insurance under section 623, of the National Service Life Insurance Act, which are made by persons in the active service on January 1, 1957, but filed prior to that date. [Revoked]

82. Immediately above § 8.116, a new centerhead is added to read "National Service Life Insurance Granted Under Section 722(b) of Title 38, United States Code."

(72 Stat. 1114; 38 U.S.C. 210)

These regulations are effective September 11, 1959.

[SEAL] ROBERT J. LAMPHERE,
Associate Deputy Administrator.

[F.R. Doc. 59-7564; Filed, Sept. 10, 1959; 8:48 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER C—AREAS SUBJECT TO SPECIAL LAWS

[Circular 2021]

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

Miscellaneous Amendments

On page 5577 of the FEDERAL REGISTER of July 10, 1959, there was published a notice of proposed rule making to issue regulations to provide for the sale of set-aside timber to qualified small business concerns in accordance with the Small Business Act of July 18, 1958 (72 Stat. 384). Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed regulations.

No comments, suggestions or objections have been received.

The proposed regulations are hereby adopted without change and are set forth below.

FRED A. SEATON,
Secretary of the Interior.

SEPTEMBER 3, 1959.

1. Section 115.16 is amended by adding a new paragraph (f) to read as follows:

§ 115.16 Definitions.

* * * * *

(f) "Set-aside" means a designation of timber for sale which is limited to bidding by small business concerns as defined by the Small Business Administration in its regulations (13 CFR Part 121) under the authority of section 15 of the Small Business Act of July 18, 1958 (72 Stat. 384).

2. Section 115.17 is amended to read as follows:

§ 115.17 Annual timber sale plan.

Plans for the sale of timber from the O. and C. lands will be developed annually. Suggestions from prospective purchasers of such timber may be received to assist in the development of a sound annual timber sale plan. Such plan shall be advertised in a newspaper of general circulation in the area in which the timber is located. Such advertisement shall indicate generally the probable time when the various tracts of timber included in the plan will be offered for sale, set-asides if any, and the probable location and anticipated volumes of such tracts. The authorized officer may subsequently change, alter or amend the annual timber sale plan.

3. Paragraph (b) of § 115.18 is amended to read as follows:

§ 115.18 Advertising.

* * * * *

(b) The advertisement of sale shall state the location by legal description of the tract or tracts on which timber is being offered, the species, estimated quantities, the unit of measurement, appraised values, time and place for receiving and opening of bids, minimum deposit required, the access situation, the method of bidding, which tracts of timber if any have been designated as set-asides, the office where additional information may be obtained, and such additional information as the authorized officer may deem necessary.

4. Section 115.22 is amended to read as follows:

§ 115.22 Qualifications of bidders.

A bidder for the sale of timber must be (a) an individual who is a citizen of the United States, (b) a partnership composed wholly of such citizens, (c) an unincorporated association composed wholly of such citizens, or (d) a corporation authorized to transact business in the State of Oregon. A bidder must also have submitted a deposit in advance of sale as required by § 115.23. To purchase set-aside timber, the bidder must accompany his deposit with a self-certification statement that he is qualified as a small business concern as defined by the Small Business Administration in its regulations (13 CFR Part 121).

5. In § 115.24 the present paragraphs (c) and (d) are redesignated as paragraphs (d) and (e) and a new paragraph (c) is added as follows:

§ 115.24 Conduct of sales.

* * * * *

(c) Only bids of small business concerns which have filed a self-certification statement as required by § 115.22, may be considered for sales subject to set-asides. When no such bids are received, the timber may be sold under paragraph (e) of this section in the same manner as timber not previously made subject to a set-aside. When timber subject to a set-aside is not sold for any other reason, the sale may be rescheduled for a set-aside sale.

(Sec. 5, 50 Stat. 875; 43 U.S.C. 1181e)

[F.R. Doc. 59-7554; Filed, Sept. 10, 1959; 8:47 a.m.]

[Circular 2023]

SUBCHAPTER L—MINERAL LANDS

PART 200—MINERAL DEPOSITS IN ACQUIRED LANDS AND UNDER RIGHTS-OF-WAY

Stipulations and Consent of Agency Having Jurisdiction of Land; Notification to Other Parties Controlling Surface

On page 4031 of the FEDERAL REGISTER of May 19, 1959, there was published a notice of proposed amendment of 43 CFR 200.3 as a "Proposed Rule Making." Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment.

The comments and suggestions which were submitted within the 30-day period have been considered, and the proposed amended regulation is approved with the following change: In the first sentence of paragraph (c) of § 200.3, the word "shall" is substituted for the word "should."

The proposed amended regulation, as changed, is hereby adopted and is set forth below.

FRED A. SEATON,
Secretary of the Interior.

SEPTEMBER 4, 1959.

Section 200.3 is amended to read as follows:

§ 200.3 Stipulations and consent of agency having jurisdiction of land; notification to other parties controlling surface.

(a) Leases or permits may be issued only with the consent of the head or other appropriate official of the executive department, independent establishment or instrumentality having jurisdiction over the lands containing the deposits, or holding a mortgage or deed of trust secured by such lands, and subject to such conditions as that official may prescribe to insure adequate utilization of the lands for the primary purpose for which they were acquired or are being administered.

(b) All applications and offers for permits or leases should name, if practicable, the Government agency from which consent to the issuance of a permit or lease must be obtained, or the agency that may have title records covering the ownership of the mineral interest involved, and identify the project, if any, of which the land is a part. Permits or leases to which such consent is necessary will not be issued until the lessee or permittee executes such stipulations as may be required by the consenting agency.

(c) Where the United States has conveyed the title to, or otherwise transferred the control of the surface of the lands containing the deposits to any State or any political subdivision, agency or instrumentality thereof, or a college or any other educational corporation, or association, or a charitable or religious corporation or association, such party shall be given written notification by certified mail of the application for the permit or lease, and shall be afforded a reasonable period of time within which to suggest any stipulations deemed by it to be necessary for the protection of existing surface improvements or uses to be included in the permit or lease, setting forth the facts supporting the necessity thereof, and also to file any objections it may have to the issuance thereof. Where such party opposes the issuance of the permit or lease, the facts submitted in support must be carefully considered and each case separately decided on its merits. However, such opposition affords no legal basis or authority to refuse to issue the permit or lease for the reserved minerals in the lands; in such case, the final determination whether to issue the permit or lease depends upon whether the interests of the United States would best be served thereby.

(Sec. 10, 61 Stat. 915; 30 U.S.C. 359)

[F.R. Doc. 59-7555; Filed, Sept. 10, 1959; 8:47 a.m.]

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 1974]

[Colorado 025125]

COLORADO

Order Providing for Opening of Reclamation Lands to Mineral Location, Entry and Patenting (Colorado—Big Thompson Project)

Under authority of the act of April 23, 1932 (47 Stat. 136; 43 U.S.C. 154), it is ordered as follows:

Subject to valid existing rights and the provisions of existing withdrawals, the following-described national forest lands, also withdrawn for reclamation purposes in connection with the Colorado Big Thompson Project, shall, commencing at 10:00 a.m. on October 10, 1959, be open to location, entry, and patenting under the United States Mining Laws, subject to the stipulations quoted below, to be executed and acknowledged in favor of the United States by the locators, for themselves, their heirs, successors, and assigns, and recorded in the county records, and in the United States Land Office at Denver, Colorado, before any rights in their favor attach thereto:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 1 N., R. 75 W.,
Sec. 33, N½NW¼, NE¼NE¼, S½SW¼, and S½SE¼.
T. 2 N., R. 75 W.,
Sec. 32, Lots 1 through 6, incl., N½NW¼, SW¼NW¼, NE¼SW¼, S½SW¼, and S½SE¼.

The areas described aggregate 792.08 acres of public land.

With respect to the lands it shall be stipulated:

(1) In carrying out the mining or milling operations contemplated hereunder, locator will, by means of substantial dikes or other adequate structures, confine all tailings, debris, and harmful chemicals in such a manner that the same shall not be carried into Strawberry, Trail or Hurd Creeks or any other tributaries of the Fraser River; or into any stream in Walden Hollow, by storm waters or otherwise.

(2) There is reserved to the United States, its agents and employees, at all times, free ingress to, passage over, and egress from all of the above described lands for the purpose of inspection; there is further reserved to the United States, its successors and assigns the prior right to use any of the lands hereinabove described, to construct, operate, and maintain canals, dikes, wasteways, ditches, dams, reservoirs, telephone and telegraph lines, electric transmission lines, roadways and appurtenant works, including the right to take and remove from the lands hereinabove described such construction material as may be required in the construction of any Reclamation works, without any payment made by the United States, or its successor for such rights.

(3) The locator further agrees that the United States, its officers, agents, and employees and its successors or assigns, shall not be held liable for any damage to the improvements or workings of the locator resulting from the construction, operation and maintenance of any works of the United States and/or the removal of construction material from the lands hereinabove described.

Inquiries concerning these lands shall be addressed to the Land Office Manager, Bureau of Land Management, P.O. Box 1013, 371 New Custom House, Denver 1, Colorado.

FRED G. AANDAHL,
Assistant Secretary of the Interior.

SEPTEMBER 4, 1959.

[F.R. Doc. 59-7556; Filed, Sept. 10, 1959; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12933; FCC 59-923]

PART 7—STATIONS ON LAND IN THE MARITIME SERVICES

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Availability of Certain Frequencies for Assignment to Delcambre, La. Vicinity

In the matter of amendment of Parts 7 and 8 of the Commission's rules to make the frequency pair 2506 kc (coast)-2458 kc (ship) available for assignment in the vicinity of Delcambre, Louisiana.

At a session of the Federal Communications Commission held at its offices in Washington, D.C. on the 2d day of September 1959;

The Commission having under consideration the above-captioned matter;

It appearing, that in accordance with the requirements of section 4(a) of the Administrative Procedure Act, Notice of

Proposed Rule Making in this matter, which made provision for the submission of written comments by interested parties, was published in the FEDERAL REGISTER on July 1, 1959 (24 F.R. 5346), and the period for filing comments has now expired; and

It further appearing, that no comments or objections to the amendments proposed were received; and

It further appearing, that the public interest, convenience, and necessity will be served by the amendments herein ordered, the authority for which is contained in the Notice of Proposed Rule Making in this Docket;

It is ordered, That, effective October 14, 1959, Parts 7 and 8 of the Commission's rules are amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Released: September 4, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

A. Part 7 is amended as follows:

1. The table in § 7.306(b) is amended by the addition of the following new location, frequencies, and specific limitation of use after the entry for New Orleans, Louisiana:

§ 7.306 Availability of frequencies below 30 Mc.

* * * * *

(b) * * *

Coast stations located in the vicinity of—	Coast station transmitting carrier frequency [1]		Associated coast station receiving carrier frequency	
	Frequency (kc)	Specific limitations imposed upon availability for use [2]	Frequency (kc)	Specific conditions relating to use of these frequencies by ship stations for transmission as shown in § 8.354(a)(1) of this chapter [2]
*	*	* *	*	* *
Delcambre, La.....	2506	Day only; on condition that no harmful interference will be caused to any service or any station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.	2458	Day only; on condition that no harmful interference will be caused to any service or any station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.

B. Part 8 is amended as follows:

1. The Table in § 8.354(a)(1) is amended by the addition of the following new location, frequencies, and specific limitation of use after the entry for New Orleans, Louisiana:

§ 8.354 Frequencies below 5000 kc for public correspondence.

(a) * * *

(1) * * *

For communication with coast stations located in the vicinity of—	Mobile station transmitting carrier frequency [1]		Associated coast station carrier frequency	
	Frequency (kc)	Specific limitations imposed upon availability for use [2]	Frequency (kc)	Specific conditions relating to use of these frequencies by coast stations for transmission as shown in § 7.306(b) of this chapter [2]
*	*	* *	*	* *
Delcambre, La.....	2458	Day only; on condition that no harmful interference will be caused to any service or any station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.	2506	Day only; on condition that no harmful interference will be caused to any service or any station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.

§ 8.351 [Amendment]

2. The list of frequencies in § 8.351(a) is amended by adding thereto the frequency "2458" in proper numerical sequence.

[F.R. Doc. 59-7565; Filed, Sept. 10, 1959; 8:48 a.m.]

Title 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

SUBCHAPTER F—ALASKA COMMERCIAL FISHERIES

PART 115—SOUTHEASTERN ALASKA AREA

Reduction of Closed Period

Basis and purpose. Because of the sustained strength of the coho salmon runs in the Taku Inlet-Port Snettisham section of the Eastern district and in the Stikine district, it has been determined that the present extended weekly closed period can be reduced by 24 hours.

Therefore, § 115.5 is amended in paragraph (c) subparagraph (1), and paragraph (d) by deleting "Thursday" and substituting in lieu thereof "Friday".

Since immediate action is necessary if full benefit of this relaxation is to be realized, notice and public procedure on this amendment are not in the public interest, and it shall become effective immediately upon filing at the FEDERAL REGISTER. (60 Stat. 237; 5 U.S.C. 1001 et seq.).

(Sec. 1, 43 Stat. 464, as amended; 48 U.S.C. 221)

Dated: September 9, 1959.

A. W. ANDERSON,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 59-7609; Filed, Sept. 9, 1959; 2:04 p.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 20]

MAMMOTH CAVE NATIONAL PARK, MAMMOTH CAVE, KENTUCKY

Notice of Proposed Rule Making

Basis and purpose. Notice is hereby given that pursuant to section 4(a) of the Administrative Procedure Act, approved June 11, 1946 (60 Stat. 535; 16 U.S.C., 1952 ed., sec. 1003), authority contained in section 3 of the act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1952 ed. sec. 3), National Park Service Order No. 14, 19 F.R. 8824, Regional Director, Region One, Order No. 3, 21 F.R. 1493, it is proposed to amend 36 CFR 20.36 as set forth below.

The purpose of this amendment is as follows:

1. Under paragraph (a), *Fishing*, to delete existing creel limits and to clarify present regulations by defining certain terms used.

2. Under paragraph (b), *Speed*, to bring the section covering speed on dirt and gravel roads into conformity with section 1.42 of the general regulations by omitting all of the former special regulations except the statutory speed limit.

3. Under new paragraph (d), *Boats*, to provide for boating on the Green and Nolin Rivers in keeping with the purpose for which the park was set apart and to establish minimum controls which will insure the safety of persons who use these rivers.

This proposed amendment relates to matters which are exempt from the rule-making requirements of the Administrative Procedures Act (5 U.S.C. 1003); however, it is the policy of the Department of the Interior that, whenever practicable, the rule-making requirements be observed voluntarily. Accordingly, interested persons may submit in triplicate written comments, suggestions or objections with respect to the proposed amendments to the Superintendent, Mammoth Cave National Park, Mammoth Cave, Kentucky, within thirty

days of the date of publication of this notice in the FEDERAL REGISTER.

PERRY E. BROWN,
Superintendent.

§ 20.36 Mammoth Cave National Park.

(a) *Fishing*—(1) *General.* (i) Seasons: Fishing with pole and line, rod, and reel, trot and throw lines is permitted all year. Use of "snag lines", "jug lines", fish nets and baskets, minnow traps and bows and arrows is not permitted.

(ii) Definitions: For the purpose of this section a trot line is defined as a stationary line containing any number of baited hooks which are spaced at least 30 inches apart. A throw line, like the trot line, may contain a number of baited hooks spaced at least 30 inches apart. It is usually attached to some fixed object along the bank and then cast into the river.

(iii) Commercial fishing: Fishing for merchandise or profit is prohibited within the park.

(2) *Size limit.* There shall be no size limit.

(3) *Creel limit.* There shall be no creel limit.

(4) *Seines and minnows.* (i) Seines may not be used on Green and Nolin Rivers at any time. They may be used in the following runs and creeks to catch minnows and crawfish for bait: Bylew, First, Second, Pine, Big Hollow, Buffalo, Ugly Cub, Blowing Spring, Floating Mill Branch, Dry Branch and Mill Branch.

(ii) Size: Seines shall not exceed 4 x 6 feet and the mesh shall not be larger than ¼ inch.

(iii) Minnows: Minnows shall not be caught or taken for commercial purposes. As used in this section "minnow" means any member of the family "Cyprinidae" such as Chub, Carp, Goldfish, Dace, Shiner Minnow, which are less than 6 inches long. (Small fish of any game species may not be used for bait.)

(5) *Live bait.* (i) Ponds: Worms are the only form of live bait which may be used in the Sloans Crossing, Green and Doyle ponds.

(b) *Speed.* (1) Speed on all gravel or dirt roads within the park shall be limited to 35 miles per hour as provided in § 1.42(a) (3) of this chapter.

* * * * * *

(d) *Boating*—(1) *Rules of the road.* The following rules of the road shall apply to all boat operators within this park:

(i) No person shall operate a boat on the Green or Nolin Rivers in a reckless or negligent manner, so as to endanger, or be likely to endanger, the life, limb and property of another.

(ii) All persons operating boats shall slow down on approaching or passing other boats so that their wake does not endanger the other craft.

(iii) Slow speeds shall be maintained in docking, fishing or swimming areas to avoid endangering persons or other boats.

(iv) In narrow channels boats shall be operated to the right of the middle of the channel.

(v) Right-of-way shall be given to larger craft.

(2) *Restricted uses.* Airboats, water skiing, boat racing, water pagaents and other spectacular or unsafe types of recreation are prohibited within 1,000 feet of the ferries at Mammoth Cave and Houchins Ferry landings.

(3) *Definition.* For the purpose of these regulations, "boat" shall mean any water borne craft.

(4) *Safety.* Minimum safety requirements established by the United States Coast Guard, or any other federal or state regulatory agency, shall be observed by all boat operators within the park.

(39 Stat. 535; 16 U.S.C., 1952 ed. sec. 3)

[F.R. Doc. 59-7561; Filed, Sept. 10, 1959; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

[15 CFR Part 364]

TRADE FAIRS IN THE UNITED STATES

Designation of Trade Fairs

Pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003), notice is hereby given of the proposed issuance of the following rule pertaining to applications by operators of trade fairs in the United States for designation of a fair by the Secretary of Commerce for the purpose of obtaining the privileges provided by the Trade Fair Act of 1959, Public Law 86-14, relating to importation of articles under the customs laws.

Persons interested may submit to the Director of the Bureau of Foreign Commerce, Department of Commerce Building, 14th and E Streets NW., Washington 25, D.C., written data, views, or arguments, in duplicate, relative to the proposed rule. Data, views and arguments may not be presented orally in any manner. All relevant material received within 30 days following the publication of this proposed regulation in the FEDERAL REGISTER will be considered.

Dated: September 3, 1959.

[SEAL] FREDERICK H. MUELLER,
Secretary of Commerce.

Sec.
364.1 Definitions.
364.2 Who may apply for designation of a fair.
364.3 How to apply for designation of a fair.
364.4 Extending closing date of a fair.
364.5 Application for designation of a fair.

AUTHORITY: §§ 364.1 to 364.5 issued under 73 Stat. 18, Public Law 86-14.

§ 364.1 Definitions.

For the purpose of the regulations in this part:

(a) The term "Act" means the Trade Fair Act of 1959.

(b) The term "fair" includes a trade fair, trade show, industrial exhibition, agricultural fair, state or county fair, world's fair or exposition, or exhibition or exposition of a cultural, scientific or educational nature.

(c) The term "operator" means the person, firm or corporation conducting the fair and who will be responsible for entry and disposition of all articles entered under the Act at a designated fair.

§ 364.2 Who may apply for designation of a fair.

Any operator of a fair in the United States may apply to the Secretary of Commerce to have a fair designated as being in the public interest in promoting trade and therefore eligible for the privileges of duty free entry provided by the Act for articles to be exhibited at a fair or for use in constructing, installing or maintaining foreign exhibits at a fair.

§ 364.3 How to apply for designation of a fair.

(a) An operator of a fair to be held in the United States shall make application to the Bureau of Foreign Commerce, Washington 25, D.C. Such application shall be on Form FC-____ in accordance with instructions set forth on the form, and in this part.

(b) Application forms may be obtained from the Bureau of Foreign Commerce or any of the following Department of Commerce Field Offices:

Albuquerque, N. Mex., 321 Post Office Bldg.
Atlanta 3, Ga., 604 Volunteer Bldg., 66 Luckie St., NW.
Boston 9, Mass., U.S. Post Office and Courthouse Bldg.
Buffalo 3, N.Y., 504 Federal Bldg., 117 Ellicott St.
Charleston 4, S.C., Area 2 Sergeant Jasper Bldg., West End Broad St.
Cheyenne, Wyo., 207 Majestic Bldg., 16th St. and Capitol Ave.
Chicago 6, Ill., Room 1302, 226 W. Jackson Blvd.
Cincinnati 2, Ohio, 915 Fifth Third Bank Bldg., 36 E. Fourth St.
Cleveland 1, Ohio, Federal Reserve Bank Bldg., E. Sixth St. and Superior Ave.
Dallas 1, Tex., Room 3-104, Merchandise Mart
Denver 2, Colo., 142 New Customhouse.
Detroit 26, Mich., 438 Federal Bldg.
Greensboro, N.C., 407 U.S. Post Office Bldg.
Houston 2, Tex., 610 Scanlan Bldg., 405 Main Street
Jacksonville 1, Fla., 425 Federal Bldg.
Kansas City 6, Mo., Room 2011, 911 Walnut St.
Los Angeles 15, Calif., Room 450, 1031 S. Broadway
Memphis 3, Tenn., 212 Falls Bldg.
Miami 32, Fla., 316 U.S. Post Office Bldg.
Minneapolis 1, Minn., 319 Metropolitan Bldg.
New Orleans 12, La., 333 St. Charles Ave.
New York 1, N.Y., Empire State Bldg.
Philadelphia 7, Pa., Jefferson Bldg., 1015 Chestnut St.
Phoenix, Ariz., 137 N. Second Ave.
Pittsburgh 22, Pa., 107 Sixth St.
Portland 4, Oreg., 217 Old U.S. Courthouse Bldg.
Reno, Nev., 1479 Wells Ave.
Richmond 19, Va., Room 309, Parcel Post Bldg.
St. Louis 1, Mo., 910 New Federal Bldg.
Salt Lake City 1, Utah, 222 SW. Temple St.
San Francisco 11, Calif., Room 419, Customhouse
Savannah, Ga., 235 U.S. Courthouse and P.O. Bldg.
Seatle 4, Wash., 809 Federal Office Bldg., 909 First Ave.

(c) Applications for designation of a fair may be filed at any time. However, where possible, the application should be filed a minimum of 90 days before the opening date of the fair.

(d) The Bureau of Foreign Commerce may request additional data from any

applicant if it is deemed necessary in establishing the fair's eligibility.

(e) The Bureau of Foreign Commerce will notify each applicant in writing of the action taken on his application.

§ 364.4 Extending closing date of a fair.

When it shall become necessary to extend the closing date of a fair the operator shall notify the Bureau of Foreign Commerce as early as possible of the new closing date and of the reasons why the fair is to be extended.

§ 364.5 Application for designation of a fair.

An operator intending to operate a trade fair who desires to obtain the privileges of the Act with respect to articles to be imported for the purpose of exhibition at a fair or for use in constructing, installing, or maintaining foreign exhibits at a fair shall file an application with the Director, Bureau of Foreign Commerce, on Form FC-___, in duplicate, to have such fair designated. The operator shall furnish the name of the fair, the place where the fair will be held, the dates when the fair will open and close, and the name of the operator of the fair. In addition, the operator shall give the names of its officers, partners or owners; state how the fair will be financed and by whom; give the names of all organizations supporting or sponsoring the fair; state the purpose of the fair; list the kinds of products to be exhibited at the fair or the nature of the different exhibits if not of products; give the size of the exhibit space and state whether a particular area has been set aside for exhibitors of foreign products; and furnish data on how much of the exhibit space has been contracted for at the time of application separately for domestic and foreign exhibits. The fair operator shall also furnish copies of literature, brochures, etc., being distributed which explain or advertise the fair.

[F.R. Doc. 59-7539; Filed, Sept. 10, 1959; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition for Issuance of Regulation Establishing Tolerance for Chlortetracycline Hyrochloride for Use in Various Cuts of Fish and in Peeled Shrimp

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), the following notice is issued:

A petition has been filed by American Cyanamid Company, P.O. Box 383, Princeton, New Jersey, proposing the issuance of a regulation to establish a tolerance of 5.0 parts per million (0.0005 percent) of chlortetracyline hydrochloride to retard bacterial spoilage in cuts of fish, such as steaks and fillets, and in peeled shrimp.

Dated: September 8, 1959.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 59-7624; Filed, Sept. 10, 1959; 9:36 a.m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Notice 1, Amdt. 1]

ALASKA

Notice of Filing of Protraction Diagrams, Anchorage Land District

SEPTEMBER 3, 1959.

Notice of Filing of Alaska Protraction Diagram, Notice No. 1 (F.R. Doc. 59-5022), published in the FEDERAL REGISTER on June 18, 1959, Volume 24, page 4972, is hereby amended in part to read as follows:

ALASKA PROTRACTION DIAGRAMS

Sheet S 13-2, Ts. 13 to 16 N., Rs. 5 to 8 W., Seward Meridian.
Sheet S 13-3, Ts. 13 to 16 N., Rs. 9 to 12 W., Seward Meridian.
Sheet S 13-4, Ts. 13 to 16 N., Rs. 13 to 16 W., Seward Meridian.
Sheet S 13-5, Ts. 9 to 12 N., Rs. 13 to 16 W., Seward Meridian.
Sheet S 13-12, Ts. 6 to 8 N., Rs. 14 to 16 W., Seward Meridian.

IRVING W. ANDERSON,
Manager.

[F.R. Doc. 59-7575; Filed, Sept. 10, 1959; 8:50 a.m.]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

SEPTEMBER 4, 1959.

The National Park Service, Department of the Interior, has filed an application, Serial No. Los Angeles 0153533, for the withdrawal of the lands described below, from entry under the mining laws, subject, however, to existing withdrawals and to valid existing rights.

These lands have previously been withdrawn for National Monument purposes by Executive Order of February 11, 1933, as amended by the Act of June 13, 1933 (48 Stat. 139, 16 U.S.C. 447), which extended the mining laws to Death Valley National Monument.

The applicant desired the exclusion of mining activity to permit proper administration and protection of scenic, historic and scientific areas of the National Monument that could be modified or destroyed if entry under the mining laws were permitted. The uses allowed for National Monument purposes would continue to be permitted if the withdrawal is accomplished.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Bartlett Building, 215 West 7th Street, Los Angeles 14, California.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SAN BERNARDINO MERIDIAN

T. 18 N., R. 5 E.,
Sec. 2, NW¼;
Sec. 3, NE¼.
T. 19 N., R. 5 E.,
Sec. 34, SE¼;
Sec. 35, SW¼.
T. 21 N., R. 4 E., unsurveyed,
Sec. 11, S½;
Sec. 14.
T. 23 N., R. 1 E., unsurveyed,
Sec. 3, N½.
T. 23 N., R. 2 E., unsurveyed,
Secs. 11, 12;
Sec. 13, N½;
Sec. 14, N½.
T. 24 N., R. 1 E., unsurveyed,
Sec. 4, SW¼;
Sec. 5, SE¼, SW¼, S½NW¼;
Sec. 21, N½.
T. 24 N., R. 2 E., unsurveyed,
Secs. 9, 14.
T. 25 N., R. 2 E., unsurveyed,
Sec. 21, N½.
T. 26 N., R. 1 E.,
Secs. 13, 14;
Sec. 15, E½;
Secs. 23-26, incl.;
Secs. 35, 36.
T. 26 N., R. 2 E.,
Sec. 9, SE¼NE¼, NE¼SE¼;
Sec. 10, SW¼NW¼, NW¼SW¼;
Secs. 19, 30, 31.
T. 27 N., R. 1 E.,
Sec. 4, N½;
Secs. 14-16, incl;
Sec. 17, NE¼;
Secs. 21-24, incl;
Sec. 25, N½;
Sec. 26, NE¼;
Sec. 27, W½;
Sec. 28, E½;
Sec. 34, N½NW¼;
Sec. 35;
Sec. 36, E½.
T. 27 N., R. 2 E.,
Sec. 31, W½.
T. 28 N., R. 1 E.,
Sec. 13, E½NE¼;
Sec. 33, S½;
Sec. 34;
Sec. 36, W½NE¼, SE¼NW¼, NE¼SW¼, W½SE¼.
T. 28 N., R. 2 E., unsurveyed,
Sec. 7, E½NW¼;
Sec. 18, W½NW¼.

MOUNT DIABLO MERIDIAN

T. 11 S., R. 42 E.,
Sec. 7;
Sec. 27, NE¼.
T. 13 S., R. 45 E.,
Sec. 8, S½.
T. 13 S., R. 46 E.,
Sec. 35, NE¼;
Sec. 36, NW¼.

T. 14 S., R. 40 E., unsurveyed,
Sec. 24, SE¼;
Sec. 25, E½;
Sec. 36, E½.
T. 14 S., R. 41 E., unsurveyed,
Sec. 19, S½;
Sec. 20, SW¼;
Sec. 29, W½;
Secs. 30, 31;
Sec. 32, W½.
T. 14 S., R. 45 E.,
Sec. 18, NW¼.
T. 15 S., R. 40 E., unsurveyed,
Sec. 1, E½.
T. 15 S., R. 41 E., unsurveyed,
Sec. 5, W½;
Sec. 6.
T. 15 S., R. 46 E.,
Sec. 31.
T. 16 S., 46 E.,
Secs. 5, 6.
T. 17 S., R. 44 E., unsurveyed,
Sec. 8, NW¼;
Sec. 22, SE¼;
Sec. 27, NE¼.
T. 18 S., R. 45 E., unsurveyed,
Sec. 24.
T. 19 S., R. 44 E., unsurveyed,
Sec. 22, SE¼;
Sec. 23, S½;
Sec. 24, SW¼;
Sec. 25, W½;
Sec. 26, E½;
Sec. 28, NW¼.
T. 19 S., R. 45 E.,
Sec. 26, S½;
Sec. 32, SE¼;
Sec. 33, SW¼;
Sec. 35.
T. 20 S., R. 45 E.,
Sec. 2, N½;
Sec. 4, NW¼;
Sec. 5, NE¼.
T. 21 S., R. 46 E.,
Sec. 20.
T. 22 S., R. 47 E., unsurveyed,
Sec. 32, W½.

The lands total 35,848.66 acres, more or less, of which 1407.07 acres are in non-Federal ownership. The lands are located within Death Valley National Monument in the eastern portion of Inyo County and the northern portion of San Bernardino County, California.

GEORGE H. WHEATLEY,
Acting Manager.

[F.R. Doc. 59–7557; Filed, Sept. 10, 1959; 8:47 a.m.]

[No. 572]

CALIFORNIA

Small Tract Classification Order

JULY 15, 1959.

1. Pursuant to authority delegated to me by the California State Supervisor, Bureau of Land Management under Part 11, Document 4, California State Office, dated November 19, 1954 (19 F.R. 7697), I hereby classify the following described public land totaling 115.65 acres in El Dorado County, California, as suitable for lease and sale and/or direct sale under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended:

MOUNT DIABLO MERIDIAN

T. 13 N., R. 10 E.,
Section 4: Lots 4, 8, 12, 13, SW¼SW¼.

Containing 115.65 acres to be subdivided into small tracts by supplemental plat. One tract is covered by application from a person entitled to preference under 43 CFR 257.5 (a).

2. Classification of the above described lands by this order further segregates them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.

3. The lands classified by this order shall not become subject to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended, until it is so provided by an order to be issued by an authorized officer, opening the lands to application or bid, with a preference right to veterans of World War II and of the Korean Conflict and other qualified persons entitled to preference under the Act of September 27, 1944 (58 Stat. 497; 43 U.S.C. 279–284), as amended.

4. All valid applications filed prior to July 15, 1959 will be granted as soon as possible in accordance with the preference right provided for by 43 CFR 257.5(a).

R. G. SPORLEDER,
Officer in Charge, Northern Field Group, Sacramento 14, California.

[F.R. Doc. 59–7558; Filed, Sept. 10, 1959; 8:47 a.m.]

NEVADA

Order Providing for Opening of Public Lands

1. In exchanges of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315g) as amended, the following described lands have been conveyed to the United States:

MOUNT DIABLO MERIDIAN

[Nevada 050636]

T. 28 N., R. 18 E.,
Sec. 33, SE¼SE¼;
Sec. 34, S½, SW¼NW¼.

[Nevada 053706]

T. 20 N., R. 19 E.,
Sec. 1, Lots 1 and 2 of NW¼, Lot 2 of NE¼, W½ of Lot 1 of NE¼.
T. 21 N., R. 19 E.,
Secs. 13 and 25.

[Nevada 048859]

T. 41 N., R. 19 E.,
Sec. 3, W½;
Sec. 4;
Sec. 6, NE¼SE¼;
Sec. 8, NE¼;
Sec. 9;
Sec. 10, W½W½;
Sec. 16, E½, E½W½, W½SW¼;
Sec. 17, S½;
Sec. 21, E½E½, NW¼NE¼;
Sec. 22, W½, W½SE¼.

[Nevada 050188]

T. 42 N., R. 19 E.,
Sec. 11, N½NW¼;
Sec. 13, SW¼;
Sec. 16, S½SE¼;
Sec. 20, NE¼;
Sec. 21, W½NW¼;
Sec. 25, E½;
Sec. 34, S½SW¼;
Sec. 36, N½.

[Nevada 053706]

T. 20 N., R. 20 E.,
Sec. 5;
Sec. 7, W½NE¼, N½NE¼NW¼, NW¼NW¼, S½NW¼, SW¼.
T. 21 N., R. 20 E.,
Secs. 17 and 19;
Sec. 31, NE¼SW¼, E½, Lots 1, 2, 3, 4, 5.

[Nevada 045440]

T. 23 N., R. 21 E.,
Sec. 15, NE¼, E½NW¼, N½SE¼.

[Nevada 045532, 048860]

T. 12 N., R. 24 E.,
Sec. 31, Lots 3, 4, E½SW¼.
T. 18 N., R. 24 E.,
Sec. 3, S½S½.

[Nevada 051267]

T. 42 N., R. 36 E.,
Sec. 11, S½SE¼;
Sec. 12, SW¼SW¼.

[Nevada 050302]

T. 30 N., R. 42 E.,
Secs. 1 and 3;
Sec. 5, Lots 1, 2, 3, 4, S½N½.
T. 31 N., R. 42 E.,
Secs. 3, 9, 11, 13, 15, 17, 19, 21, and 23;
Sec. 31, E½;
Sec. 33, NE¼, S½;
Sec. 35.

[Nevada 050190]

T. 37 N., R. 61 E.,
Sec. 5, Lots 1, 2, 3, 4, S½N½, SE¼;
Sec. 9, all except 2.06 acres described in Deed dated March 14, 1950, recorded March 20, 1950 in Book 58 of Deeds, page 40, Elko County Records.

The above tracts aggregate 20,315.72 acres more or less.

2. The conveyances to the United States included the minerals in the following described lands only:

MOUNT DIABLO MERIDIAN

T. 20 N., R. 19 E.,
Sec. 1, Lots 1 and 2 of NW¼, Lot 2 of NE¼, W½ of Lot 1 of NE¼.
T. 21 N., R. 19 E.,
Secs. 13 and 25.
T. 41 N., R. 19 E.,
Sec. 3, W½;
Sec. 4;
Sec. 6, NE¼SE¼;
Sec. 8, NE¼;
Sec. 9;
Sec. 10, W½W½;
Sec. 16, E½, E½W½, W½SW¼;
Sec. 17, S½;
Sec. 21, E½E½, NW¼NE¼;
Sec. 22, W½, W½SE¼.
T. 20 N., R. 20 E.,
Sec. 5;
Sec. 7, W½NE¼, N½NE¼NW¼, NW¼NW¼, S½NW¼, SW¼.
T. 21 N., R. 20 E.,
Secs. 17 and 19;
Sec. 31, NE¼SW¼, E½, Lots 1, 2, 3, 4, 5.
T. 23 N., R. 21 E.,
Sec. 15, NE¼, E½NW¼, N½SE¼.
T. 12 N., R. 24 E.,
Sec. 31, Lots 3, 4, E½SW¼.
T. 18 N., R. 24 E.,
Sec. 3, S½S½.

3. The conveyances to the United States included only the gas, coal, oil and oil shale in the following described lands:

MOUNT DIABLO MERIDIAN

T. 28 N., R. 18 E.,
Sec. 33, SE¼SE¼;
Sec. 34, S½, SW¼NW¼.

4. The land in T. 28 N., R. 18 E. is located approximately 7 miles northwest

of Flannigan, Nevada, in California Grazing District No. 2. The land is flat with a gradual slope to the south, has an elevation of 4,000 feet with an average annual precipitation of about 7 inches. The soil grades from sandy loam to clay loam and supports giant sage, greasewood, and annual weeds and grasses.

5. The lands in T's 20 and 21 N., R's 19 and 20 E., are located north of Reno and Sparks, Nevada, approximately 7 to 15 miles. The topography is gently rolling to rough and mountainous. The soils vary from sandy loam to gravelly rocky sands and support a sparse growth of cheatgrass, big sage, bitter brush and associated weeds and forbs. Elevation is from 4,500 feet to 6,000 feet.

6. The land in T. 41 N., R. 19 E., is located in the northwest portion of Washoe County, approximately 6 to 10 miles south of Vya, Nevada, in California Grazing District No. 2. The topography generally is rough and mountainous with some nearly level table land. The elevation ranges from approximately 4,800 feet to 6,500 feet. Vegetation consists of sagebrush, annuals and scattered patches of bunch grass with a few juniper trees on the higher elevations.

7. The land in T. 42 N., R. 19 E., is within the boundaries of California Grazing District No. 2, approximately 2 to 6 miles south of Vya, Nevada. The topography varies from rolling foothills to generally level valley floor with an elevation of 4,600 feet to 6,500 feet. The average annual precipitation is about 8 to 10 inches.

8. The land in T. 23 N., R. 21 E., is located approximately 25 miles northwest of Sparks, Nevada, within Nevada Grazing District No. 3. Vegetation consists of sagebrush and native grasses with a few scattered juniper trees. The land is fairly level forming the outlet of a steep ravine, largely filled by sand and gravel and stream boulders.

9. The land in T. 12 N., R. 24 E., is located in Lyon County, 7½ miles northeast of Wellington, Nevada. The topography is rolling to slightly hilly, traversed by a dry wash channel, with an elevation of approximately 4,750 feet. Surface soil is sandy and supports sagebrush with a sparse understory of Indian rice grass.

10. The land in T. 18 N., R. 24 E., is approximately 3 miles northwest of Silver Springs, Nevada, in Lyon County. The terrain is rough and mountainous with an elevation of 5,000 feet. Vegetation consists of upland sagebrush, mormon tea and annual grasses.

11. The land in T. 42 N., R. 36 E., is grazing land situated in Quinn River Valley, approximately 40 miles northwest of Winnemucca, Nevada, in Nevada Grazing District No. 2. The soil is heavy and salty with a vegetative covering of sparse salt grass and scattered clumps of rye grass, greasewood and big rabbit brush.

12. The lands in T's 30 and 31 N., R. 42 E. are within Nevada Grazing District No. 6, approximately 20 to 30 miles southwest of Battle Mountain, Nevada. The topography is level to gently rolling to mountainous with drainage generally toward the west. Vegetation consists of sagebrush, mixed grasses and piñon junipers. Elevation ranges from 5,000 feet to 7,000 feet.

13. The land in T. 37 N., R. 61 E. is grazing land situated in Nevada Grazing District No. 1, approximately 9 miles northwest of Deeth, Navada. The topography is generally level draining to the north with an elevation of 4,000 feet. The soil grades from sandy loam to clay loam and supports a growth of sage and annual weeds and grasses.

14. No application for these restored lands will be allowed under the homestead, desert-land, small tract, or any other nonmineral public land law, unless the lands have already been classified as valuable, or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

15. Pursuant to the authority delegated to me by Order No. 541, section 3.5 of the Director, Bureau of Land Management, of April 21, 1954, the lands described in paragraph 1, subject to valid existing rights and the requirements of applicable law, and the provisions of paragraph 16 of this order, are hereby opened to filing of applications, selections and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such selections, applications, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the Act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 279–284 as amended), presented prior to 10:00 a.m. on October 9, 1959, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a.m. on January 8, 1960, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a.m. on January 8, 1960, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands described in paragraph 2 shall be open to location under the mining laws, and to applications and offers under the mineral leasing laws, and those described in paragraph 3 to applications and offers under the mineral leasing laws, beginning at 10:00 a.m. on January 8, 1960. Applications and offers under the mineral leasing laws received on or before that hour shall be considered as simultaneously filed at that time. Those thereafter received shall be considered in order of filing.

16. With respect to the following described lands, aggregating 320 acres, this restoration is made in furtherance of a proposed exchange under section 8 of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g) as amended, by which the offered lands will benefit a Federal Land program. As to such lands, therefore, this opening is not subject to the preference right provisions of the Act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 279–284) as amended, nor to location under the mining laws or applications and offers under the mineral leasing laws: —

MOUNT DIABLO MERIDIAN

T. 23 N., R. 21 E.,
Sec. 15, NE¼, E½NW¼, N½SE¼.

17. Persons claiming veteran's preference rights under paragraph 15 a(2) above, must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

18. Inquiries concerning the restored lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Reno, Nevada.

JAMES E. KEOGH, Jr.,
Manager Land Office.
P.O. Box 1551, Reno, Nevada.

SEPTEMBER 3, 1959.

[F.R. Doc. 59-7559; Filed, Sept. 10, 1959; 8:47 a.m.]

[Wyoming 085048 (Neb.)]

WYOMING

Notice of Proposed Withdrawal and Reservation of Lands

SEPTEMBER 2, 1959.

The Bureau of Reclamation, United States Department of the Interior, has filed application, Serial No. Wyoming 085048 (Neb.), for withdrawal of the lands described below, from all forms of appropriation other than that provided for by the Federal Reclamation Act of June 17, 1902 (32 Stat. 388), as amended.

The applicant desires the lands for construction and administration of the Merritt Dam and Reservoir, a part of the Ainsworth Unit of the Missouri River

Basin Project. The lands have been withdrawn as a part of the Nebraska National Forest and as such have not been open to entry under the non-mineral public land laws.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Supervisor, Bureau of Land Management, Department of the Interior, P.O. Box 929, Cheyenne, Wyoming.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

A determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SIXTH PRINCIPAL MERIDIAN

T. 31 N., R. 31 W.,
Sec. 25, S½, S½NW¼;
Sec. 26, NE¼, S½NW¼, N½SW¼, SE¼.

Containing approximately 880 acres of public land.

EUGENE L. SCHMIDT,
Lands and Minerals Officer.

[F.R. Doc. 59-7560; Filed, Sept. 10, 1959; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

[Docket No. 815]

COMMON CARRIERS BY WATER

Status of Express Companies, Truck Lines and Other Non-Vessel Carriers

At a session of the Federal Maritime Board, held at its Office in Washington, D.C., on the 31st day of August 1959, the following ninth supplemental order was entered:

Whereas, pursuant to its order of March 14, 1957, the Board published in the FEDERAL REGISTER on March 19, 1957, a notice of investigation and hearing in this proceeding to determine the classification and status of express companies, truck lines and other non-vessel carriers under the Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended; and

It appearing, that certain differences of opinion exist among the various parties as to the precise nature and purpose of this proceeding, now therefore,

It is ordered, That the aforesaid order and notice of investigation and hearing be and they hereby are amended by adding the following language immediately following the word "amended" at the end of that paragraph of said order and notice which begins with the words *"It is ordered,* That the Board enter" and ending with the words "and the Intercoastal Shipping Act, 1933, as amended".

"in order to arrive at a general rule or interpretation applicable in the future to all persons, whether or not named as respondents herein, who hold themselves out to transport goods by water but who do not own or control the means by which such transportation is effected; the naming of specific respondents herein is to assure notice to those persons thought by the Board to be affected by any final action herein;"

Dated: September 8, 1959.

By order of the Federal Maritime Board.

[SEAL] JAMES L. PIMPER,
Secretary.

[F.R. Doc. 59-7574; Filed, Sept. 10, 1959; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-137]

AMERICAN MACHINE & FOUNDRY CO.

Notice of Issuance of Utilization Facility Export License

Please take notice that no request for formal hearing having been filed following filing of notice of the proposed action with the Federal Register Division, the Atomic Energy Commission has issued License No. XR-30 to American Machine & Foundry Company, AMF Atomics Division, Greenwich, Connecticut, auhorizing the export of a 1 megawatt (thermal) pool-type research reactor to the Turkish Atomic Energy Commission, Istanbul, Turkey. The notice of proposed issuance of this license was published in the FEDERAL REGISTER on July 17, 1959, 24 F.R. 5743.

Dated at Germantown, Maryland, this 4th day of September 1959.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director,
Division of Licensing & Regulation.

[F.R. Doc. 59-7536; Filed, Sept. 10, 1959; 8:45 a.m.]

COMMITTEE FOR RECIPROCITY INFORMATION

GENERAL AGREEMENT ON TARIFFS AND TRADE: PROVISIONAL ACCESSION OF SWITZERLAND AND ISRAEL; RELATIONS WITH YUGOSLAVIA

The Interdepartmental Committee on Trade Agreements[1] has issued on this day a notice of intention to consider participating in arrangements, not involving the conduct of new tariff negotiations, for the provisional accession of Switzerland and Israel to the General Agreement on Tariffs and Trade, and for relations with Yugoslavia under that Agreement closer than the observer status now applicable to that country.

Pursuant to paragraph 5 of Executive Order 10082 of October 5, 1949, as amended (3 CFR, 1949-53 Comp., pp. 281, 355), the Committee for Reciprocity Information hereby gives notice that all applications for oral presentation of views in regard to any aspect of the foregoing proposals shall be submitted to the Committee for Reciprocity Information not later than October 9, 1959. The application must indicate on which of the above arrangements the individual or group desires to be heard and an estimate of the time required for oral presentation. Written statements shall be submitted not later than October 9, 1959. Such communications shall be addressed to "Committee for Reciprocity Information, Tariff Commission Building, Washington 25, D.C." Fifteen copies of written statements, either typed, printed, or duplicated, shall be submitted, of which one copy shall be sworn to.

Written statements submitted to the Committee, except information and business data proffered in confidence, shall be open to inspection by interested persons. Information and business data proffered in confidence shall be submitted on separate pages clearly marked "For Official Use Only of the Committee for Reciprocity Information."

Public hearings will be held before the Committee for Reciprocity Information, at which oral statements will be heard, beginning at 10:00 a.m. on October 20, 1959, in the Hearing Room in the Tariff Commission Building, Eighth and E Streets, NW., Washington, D.C. Witnesses who make application to be heard will be advised regarding the time and place of their individual appearances. Appearances at hearings before the Committee may be made only by or on behalf of those persons who have filed written statements and who have within the time prescribed made written application for oral presentation of views. Statements made at the public hearings shall be under oath.

Copies of the notice issued today by the Interdepartmental Committee on Trade Agreements may be obtained from the Committee for Reciprocity Information, Tariff Commission Building, Washington 25, D.C., and may be inspected at the Field Offices of the Department of Commerce.

By direction of the Committee for Reciprocity Information this 9th day of September 1959.

EDWARD YARDLEY,
Secretary, Committee
for Reciprocity Information.

[F.R. Doc. 59-7642; Filed, Sept. 10, 1959; 11:44 a.m.]

[1] See F.R. Document 59-7643, *infra.*

INTERDEPARTMENTAL COMMITTEE ON TRADE AGREEMENTS

GENERAL AGREEMENT ON TARIFFS AND TRADE: PROVISIONAL ACCESSION OF SWITZERLAND AND ISRAEL; RELATIONS WITH YUGOSLAVIA

Pursuant to section 4 of the Trade Agreements Act approved June 12, 1934, as amended (48 Stat. 945, ch. 474; 65 Stat. 73, ch. 141), and to paragraph 4 of

Executive Order 10082 of October 5, 1949, as amended (3 CFR, 1949–1953 Comp., pp. 281, 355), notice is hereby given by the Interdepartmental Committee on Trade Agreements of intention to consider participating in arrangements, not involving the conduct of new tariff negotiations, for the provisional accession of Switzerland and Israel to the General Agreement on Tariffs and Trade, and for relations with Yugoslavia under the General Agreement closer than the observer status now applicable to that country.

1. *Switzerland.* Under the arrangements for the provisional accession of Switzerland that country would apply, to contracting parties to the General Agreement which formally accept these arrangements, the provisions of that Agreement, including tariff concessions negotiated by Switzerland with some contracting parties (not including the United States) but subject to reservations with respect to certain parts of the Agreement. In return such contracting parties would apply to Switzerland the provisions of the Agreement, including direct rights to their schedules containing tariff concessions. It is not proposed, in connection with any participation by the United States in these arrangements with Switzerland, to terminate or suspend the entire bilateral trade agreement with Switzerland concluded on January 1, 1936 (49 Stat. 3917; EAS 90), as supplemented by exchanges of notes dated September 19, October 4, and November 14, 1940 (54 Stat. 2461; EAS 193) and October 13, 1950 (2 U.S.T. 453; TIAS 2188) and by the supplementary agreement dated June 8, 1955 (6 U.S.T. 2845; TIAS 3328). Consideration is being given, however, to suspending, during such time as the provisions of the General Agreement would be applicable between the United States and Switzerland, those provisions of the bilateral trade agreement which generally relate to trade matters that would be covered by the General Agreement while retaining in effect the schedules containing tariff and other concessions and such other provisions of the Agreement as relate to the application of such concessions.

2. *Israel.* Under the arrangements for the provisional accession of Israel that country would apply the provisions of the General Agreement to contracting parties to that Agreement which formally accept these arrangements. Israel would not undertake obligations with respect to tariff concessions. In return such contracting parties would apply to Israel the provisions of the Agreement other than those which accord direct rights to their schedules containing tariff concessions. The United States has no bilateral trade agreement with Israel.

3. *Yugoslavia.* Under the arrangements with respect to Yugoslavia that country would apply, to contracting parties to the General Agreement which formally accept these arrangements, the provisions of that Agreement to the extent compatible with the current economic system of Yugoslavia. In return such contracting parties would apply to Yugoslavia such treatment as will achieve an equitable balance of rights and obligations as envisaged in the General Agreement. Moreover, Yugoslavia and the contracting parties formally accepting these arrangements would take the objectives of the General Agreement as a basis for their commercial relations with each other, and provision would be made for the bilateral adjustment of questions arising under these arrangements and for their annual review by the Contracting Parties to the General Agreement. The United States has no bilateral trade agreement with Yugoslavia.

The proposals with respect to none of the above three countries would involve the modification of any United States tariff rates or the addition of any new articles imported into the United States to any existing schedule of United States tariff concessions.

Pursuant to section 4 of the Trade Agreements Act, as amended, and paragraph 5 of Executive Order 10082, as amended, information and views as to any aspect of the proposals announced by this notice may be submitted to the Committee for Reciprocity Information in accordance with the announcement of this date issued by that Committee.[1]

By direction of the Interdepartmental Committee on Trade Agreements, this 9th day of September 1959.

ALBERT E. PAPPANO,
Alternate Chairman, Interdepartmental Committee on Trade Agreements.

[F.R. Doc. 59-7643; Filed, Sept. 10, 1959; 11:44 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 13187; FCC 59-912]

WESTERN UNION TELEGRAPH CO.

Order Instituting Investigation

In the matter of the formula for the distribution by the Western Union Telegraph Company of telegraph traffic destined to points in Canada.

At a session of the Federal Communications Commission held at its offices in Washington, D.C. on the 2d day of September, 1959;

The Commission having under consideration the Formula for the distribution of telegraph traffic destined to points in Canada as set forth in Exhibit 31 in Docket No. 6517, In the Matter of the Application for Merger of The Western Union Telegraph Company and Postal Telegraph, Inc.;

It appearing that the Formula is a Memorandum of Understanding, dated July 6, 1943, among The Western Union Telegraph Company, Canadian National Railway Company (on behalf of itself and all other Companies comprised in the National Railway System) and Canadian Pacific Railway Company; that the Formula provides for the distribution by Western Union between Canadian National and Canadian Pacific of telegraph traffic destined to points in Canada and for the division of charges for such traffic; and that the Formula by its terms is to remain in effect until October 1, 1959;

It further appearing that the Formula was approved by the Commission in the above-entitled Docket No. 6517 pursuant to section 222(e)(2) of the Communications Act of 1934; and that such Section provides that traffic of the nature involved herein shall be interchanged and the charges therefor divided in accordance with such just, reasonable, and equitable formula in the public interest as the interested carriers shall agree upon and the Commission shall approve, or prescribe after hearing in case the carriers fail to agree;

It further appearing that Western Union, Canadian National and Canadian Pacific have to date been unable to agree to a new Formula or to the extension of the current Formula beyond October 1, 1959;

It is ordered, That pursuant to sections 4, 222 and 403 of the Act, the Commission shall enter into a hearing and investigation concerning the distribution by Western Union between Canadian National and Canadian Pacific of telegraph traffic destined to points in Canada and the divisions of charges therefor;

It is further ordered, That, without in any way limiting the scope of the investigation as above ordered, it shall include inquiry into the following matters:

(a) The lawfulness of the current distribution by Western Union of telegraph traffic destined to points in Canada; and the changes, if any, in such distribution that should be approved or prescribed;

(b) The lawfulness of the current divisions of charges for the traffic involved herein; and the changes, if any, in such divisions that should be approved or prescribed;

It is further ordered, That Western Union is made a party respondent in this proceeding; and that Canadian National and Canadian Pacific are granted leave to intervene herein;

It is further ordered, That, during the pendency of this proceeding and unless and until ordered otherwise by the Commission, Western Union shall continue to distribute the traffic involved herein to Canadian National and Canadian Pacific and divide the charges therefor in accordance with the requirements of the current Formula;

It is further ordered, That a copy of this order be served upon each of the above-named companies;

It is further ordered, That this matter is designated for hearing at a time and place to be specified in a subsequent order, and that the presiding officer shall certify the record to the Commission without preparing either a Recommended or Initial Decision.

Released: September 8, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7566; Filed, Sept. 10, 1959; 8:48 a.m.]

[1] See F.R. Document 59-7642, *supra.*

[Docket No. 13178]

W. D. COONS AND A. E. MOORER

Order To Show Cause

In the matter of W. D. Coons & A. E. Moorer, Indian Street, Mount Pleasant, South Carolina, Docket No. 13178; order to show cause why there should not be revoked the license for Radio Station WH-5445, aboard the vessel "Barbara Lee."

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Official Notice of Violation dated May 28, 1959, alleging that on April 9, 1959, at 11:05 p.m. e.s.t., the subject radio station was observed in violation of Commission rules as follows:

Section 8.366(f)(1): An exchange of communications between Station WH-5445 and another mobile station exceeded five minutes in duration.

Section 8.364(a): Station was not properly identified in that its call sign was not given at the beginning and end of each complete exchange of communications.

Section 8.178: Transmission of superfluous or unnecessary communications.

Section 8.366(b)(2): Failure to establish communication by calling and answering on the frequency 2182 kc.; no evidence of a pre-arranged schedule on the frequency 2638 kc.

It further appearing, that, the above-named licensee received said official notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated July 7, 1959, and sent by Certified Mail—Return Receipt Requested (No. 1-21587), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing, that receipt of the Commission's letter was acknowledged by the signature of the licensee's agent, Mrs. W. D. Coons on July 9, 1959 to a Post Office Department return receipt; and

It further appearing, that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing, that, in view of the foregoing, the licensee has willfully violated § 1.61 of the Commission's rules;

It is ordered, This 4th day of September, 1959 pursuant to section 312(a)(4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b)(8) of the Commission's statement of delegations of authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked and appear and give evidence in respect thereto at a hearing[1] to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order by Certified Mail—Return Receipt Requested to the said licensee.

Released: September 8, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7567; Filed, Sept. 10, 1959; 8:49 a.m.]

[Docket No. 13176]

VERNON F. CROTTS

Order To Show Cause

In the matter of Vernon F. Crotts, Box 1125, Aransas Pass, Texas, Docket No. 13176; order to show cause why there should not be revoked the license for Radio Station WA-3357 aboard the vessel "Carey."

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing, that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Official Notice of Violation, dated June 10, 1959, alleging that on May 20, 1959, at 11:29 a.m., e.s.t., the subject radio station was observed in violation of Commission rules as follows:

Section 8.368(a): No evidence that a log of radiotelephone communications has been maintained.

Section 8.368(a)(5): No official station log entries to indicate periods of time when a listening watch was maintained on the frequency 2182 kc. in accordance with the requirements of § 8.223(b) of the Commission's rules.

Section 8.367(a)(2): A copy of Part 8 of the Commission's rules and regulations was not on board the vessel at the time of inspection.

Section 8.109(e): No record to indicate that transmitter frequencies have been measured as required.

It further appearing, that, the above-named licensee received said Official notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated July 13, 1959, and sent by Certified Mail—Return Receipt Requested (No. 1-21603), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing, that receipt of the Commission's letter was acknowledged by the signature of the licensee's agent, Jeanette Blaylock on July 21, 1959 to a Post Office Department return receipt; and

It further appearing, that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing, that, in view of the foregoing, the licensee has willfully violated § 1.61 of the Commission's rules;

It is ordered, This 4th day of September 1959, pursuant to section 312(a)(4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b)(8) of the Commission's statement of delegations of authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked and appear and give evidence in respect thereto at a hearing[1] to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order by Certified Mail—Return Receipt Requested to the said licensee.

Released: September 8, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7568; Filed, Sept. 10, 1959; 8:49 a.m.]

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[1] Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

[Docket No. 12908; FCC 59M-1128]

LAIRD BROADCASTING CO., INC. (KHAK)

Order Continuing Hearing

In re application of Laird Broadcasting Company, Inc. (KHAK), Cedar Rapids, Iowa, Docket No. 12908, File No. BP-11855; for construction permit for standard broadcast station.

The Hearing Examiner having under consideration the informal request of the parties for a continuance of the above-entitled proceeding in view of negotiations looking toward dismissal of the protest;

It is ordered, This 4th day of September 1959, on the Hearing Examiner's own motion that the hearing presently scheduled to commence on September 8, 1959, is continued to November 18, 1959.

Released: September 8, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7569; Filed, Sept. 10, 1959; 8:49 a.m.]

[Docket No. 13177]

B. L. McDOWELL

Order To Show Cause

In the matter of B. L. McDowell, Box 423, Aransas Pass, Texas, Docket No. 13177; order to show cause why there should not be revoked the license for Radio Station WD-8355, aboard the vessel "Bert H. Walling III."

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing, that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Official Notice of Violation dated May 13, 1959, alleging that on April 22, 1959, at approximately 1:30 p.m., e.s.t., the subject radio station was observed in violation of Commission rules as follows:

Section 8.368(a)(5): No official station log entries to indicate the periods of time when a listening watch was maintained on the frequency 2182 kc. in compliance with § 8.223(b) of the Commission's rules.

Section 8.184: Radio station log not kept up to date.

Section 8.367(a)(2): A copy of Part 8 of the Commission's rules and regulations was not on shipboard at the time of inspection.

It further appearing, that, the above-named licensee received said Official notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated July 7, 1959, and sent by Certified Mail—Return Receipt Requested (No. 1-21588), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing, that receipt of the Commission's letter was acknowledged by the signature of the licensee on July 10, 1959 to a Post Office Department return receipt; and

It further appearing, that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing, that, in view of the foregoing, the licensee has willfully violated § 1.61 of the Commission's rules;

It is ordered, This 4th day of September, 1959, pursuant to section 312(a)(4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b)(8) of the Commission's statement of delegations of authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked and appear and give evidence in respect thereto at a hearing[1] to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order by Certified Mail—Return Receipt Requested to the said licensee.

Released: September 8, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7570; Filed, Sept. 10, 1959; 8:49 a.m.]

[1] Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

[Docket Nos. 11836, 11837; FCC 59M-1126]

PLAINVIEW RADIO AND STAR OF THE PLAINS BROADCASTING CO.

Order Continuing Hearing

In re applications of Earl S. Walden, Homer T. Goodwin, and Leroy Durham, d/b/a Plainview Radio, Plainview, Texas, Docket No. 11836, File BP-10200; Troyce H. Harrell and Kermit E. Ashby, d/b/a Star of the Plains Broadcasting Co., Slaton, Texas, Docket No. 11837, File No. BP-10499; for construction permits.

In accordance with the agreements reached at the prehearing conference held in the above-entitled proceeding on September 3, 1959;

It is ordered, This 3d day of September, 1959, that a further prehearing conference shall be held on November 10, 1959 in the offices of the Commission at Washington, D.C. commencing at 10:00 a.m.;

It is further ordered, That the hearing presently scheduled to commence on September 21, 1959 is continued to a date to be determined at the further prehearing conference.

Released: September 4, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7571; Filed, Sept. 10, 1959; 8:49 a.m.]

[Docket No. 13054; FCC 59M-1109]

SUBURBAN BROADCASTING CO., INC. (WVIP)

Order Scheduling Prehearing Conference

In re application of Suburban Broadcasting Company, Inc. (WVIP), Mount Kisco, New York, Docket No. 13054, File No. BP-12258; for construction permit.

It is ordered, This 2d day of September, 1959, that a prehearing conference, in accordance with § 1.111 of the rules, will be held in the above-entitled matter at 2:00 p.m. on Thursday, September 10, 1959, in the offices of the Commission, Washington, D.C.

Released: September 3, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7572; Filed, Sept. 10, 1959; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-9325]

ATLANTIC REFINING CO.

Notice of Application and Date of Hearing

SEPTEMBER 4, 1959.

Take notice that the Atlantic Refining Company (Applicant) an independent producer with its principal place of business in Dallas, Texas, filed an application on September 15, 1955, as amended January 16, 1958, for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, authorizing the Applicant to sell natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas to Tennessee Gas Transmission Company from production from certain leases in the Magnet-Withers Field, Wharton County, Texas, for transportation in interstate commerce for resale. The gas sales contract dated May 24, 1955, is on file with the Commission as Applicant's FPC Gas Rate Schedule No. 124. A letter agreement dated October 7, 1957, amending said contract by releasing certain acreage from the terms thereof is on file as Supplement No. 3 to said rate schedule, and is the subject of the amendment filed in this docket on January 16, 1958.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 13, 1959 at 9:30 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street, NW., Washington, D.C., concerning the matters involved in and the issues presented by such application as amended; *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before September 29, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-7545; Filed, Sept. 10, 1959; 8:46 a.m.]

[Docket No. G-15819, etc.]

AUSTRAL OIL CO. ET AL.

Notice of Applications and Date of Hearing

SEPTEMBER 4, 1959.

In the matters of Austral Oil Company Incorporated[1] Docket Nos. G-15819; John W. Mecom, G-16975; Seadrift Pipeline Corporation, G-17044; Union Oil Company of California, G-17263.

Take notice that each of the above Applicants has filed an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the sale of natural gas in interstate commerce for resale as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications which are on file with the Commission and open to public inspection.

All of the Applicants seek certificate authorization to sell and deliver natural gas to Trunkline Gas Company (Trunkline).[2]

Docket No. G-15819: Austral Oil Company Incorporated (Austral), by its application filed August 4, 1958, requests certificate authority to sell and deliver natural gas to Trunkline, pursuant to a contract dated July 18, 1958, to be produced from acreage located in the North Freshwater Bayou Field, Vermillion Parish, Louisiana.

Docket No. G-16975: John W. Mecom (Mecom) on November 14, 1958, filed an application seeking certificate authorization to sell and deliver natural gas to Trunkline pursuant to a contract dated July 9, 1958, whereby Mecom dedicated to the performance of the proposed service 122,787 acres in the Alta Loma and Hitchcock Field areas in Galveston County, Texas.

Docket No. G-17044: Seadrift Pipeline Corporation (Seadrift) on November 25, 1958 filed an application for certificate authority to sell and deliver natural gas to Trunkline pursuant to a contract dated August 22, 1958, whereby Seadrift dedicated to the performance of its proposed service 71.08 acres in the Northeast Hitchcock Field, Galveston County, Texas.

Docket No. G-17263: Union Oil Company of California (Union Oil) on December 15, 1958, filed an application for certificate authority to sell and deliver natural gas to Trunkline pursuant to a contract dated September 16, 1958, as amended November 14, 1958, wherein Union Oil dedicated certain acreage located in the Alta Loma, Arcadia areas of Galveston County, Texas.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 13, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, DC., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before September 30, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-7546; Filed, Sept. 10, 1959; 8:46 a.m.]

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[1] Formerly Austral Oil Exploration Company Incorporated.

[2] The gas purchase contracts described herein were submitted by Trunkline as exhibits in the proceedings in Docket Nos. G-15394, et al., to support its application. This docket, and others, were the subject matter of FPC Opinion 321 and accompanying order issued May 22, 1959, whereby Trunkline was authorized to expand its system to serve new customer markets.

[Docket Nos. G-15227, G-15542]

HUMBLE OIL & REFINING CO. AND OHIO OIL CO.

Order Consolidating Applications and Fixing Date of Hearing

SEPTEMBER 4, 1959.

Humble Oil & Refining Company (Humble), a Texas corporation with principal place of business at Humble Building, Houston, Texas, filed an application for a certificate of public convenience and necessity in Docket No. G-15227 on June 4, 1958, as amended December 8, 1958, for itself and as operator pursuant to section 7(c) of the Natural Gas Act, authorizing Humble to render service as hereinafter described, subject to

the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Humble proposes to sell natural gas in interstate commerce to United Gas Pipe Line Company (United) for resale. Humble and United have entered into a gas purchase contract, dated May 22, 1958 and having a 20-year term from the date of commencement of deliveries, wherein Humble has dedicated to the performance thereof all of the natural gas, subject to certain reservations, produced from, or attributable to, its interest in all lands and leaseholds now owned or hereafter acquired, in the American Island and North American Island Fields, St. Martin Parish, Louisiana, as they now exist or as said fields may hereafter be extended or enlarged during the term of the contract. The contract provides for an initial price of 21.20 cents per Mcf at 15.025 psia plus applicable tax reimbursement. This basic contract is designated as a part of Humble's FPC Gas Rate Schedule No. 136.

The Ohio Oil Company (Ohio), an Ohio corporation with principal place of business at 539 South Main Street, Findlay, Ohio, filed an application for a certificate of public convenience in Docket No. G-15542 on July 24, 1958, pursuant to section 7(c) of the Natural Gas Act, authorizing Ohio to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Ohio proposes to sell natural gas in interstate commerce to United for resale. Ohio and United have entered into a gas sales contract, dated July 11, 1958 and having a 20-year term from the date of commencement of deliveries, wherein Ohio has dedicated to the performance thereof all of the natural gas, subject to certain reservations, produced from, or attributable to, its interests in all lands and leaseholds now owned or hereafter acquired, in the American Island Field, St. Martin Parish, Louisiana, as it now exists or as said field may be hereafter extended or enlarged during the term of the contract. The contract provides for an initial price of 21.20 cents per Mcf at 15.025 p.s.i.a. plus applicable tax reimbursement. The basic contract is designated as a part of Ohio's FPC Gas Rate Schedule No. 39.

Heretofore, by order issued on April 7, 1959, in the matters of The Ohio Oil Company, et al., Docket Nos. G-15542 et al., and published in the FEDERAL REGISTER on April 14, 1959 (24 F.R. 2848), the application of Ohio in Docket No. G-15542 was described and consolidated for purposes of formal hearing with the application of MPS Production Co., Inc., et al., in Docket No. G-15813. This order fixed April 27, 1959 as the last day for filing protests or petitions to intervene and scheduled the applications in Docket Nos. G-15542 and G-15813 as then consolidated for formal hearing on May 13, 1959. Thereafter, by notice issued on May 8, 1959 in the proceedings as then consolidated and published in the FEDERAL REGISTER on May 14, 1959 (24 F.R. 3897), the hearing was postponed to a date to be thereafter fixed in order to give consideration to additional filings made in said proceedings. The matters referred to have been disposed of by separate order to be issued prior to or concurrently with this order. Among other things, the separate order referred to severs the applications in Docket Nos. G-15542 and G-15813 which were heretofore consolidated as aforesaid.

The Commission finds: The applications in Docket Nos. G-15227 and G-15542 should be heard on a consolidated record.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 13, 1959 at 10:00 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by the applications in Docket Nos. G-15227 and G-15542.

(B) Protests or petitions to intervene in Docket Nos. G-15227 and G-15542 may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.10) on or before September 25, 1959.

By the Commission.[1]

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-7547; Filed, Sept. 10, 1959; 8:46 a.m.]

[Docket No. G-17934]

NATURAL GAS PRODUCTS CO.

Notice of Application and Date of Hearing

SEPTEMBER 4, 1959.

Take notice that on February 24, 1959, Natural Gas Products Company (Applicant) filed an application in Docket No. G-17934, pursuant to section 7(b) of the Natural Gas Act, for permission to abandon service to Colorado Interstate Gas Company (Colorado Interstate) from Applicant's gasoline products plant which receives casinghead gas from oil wells in the Roggen and Southwest Roggen Fields, Morgan County, Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The subject sales are covered by a gas sales contract dated June 14, 1956, as amended, between Applicant, as seller, and Colorado Interstate, as buyer, on file as Natural Gas Products Company FPC Gas Rate Schedule No. 1, as supplemented. Concurrently with this application, Applicant filed notice of cancellation of its related FPC Gas Rate Schedule No. 1, which notice has been accepted for filing and designated as Supplement No. 1 to Natural Gas Products Company FPC Gas Rate Schedule No. 1.

Applicant states that the supply of gas purchased from the aforementioned properties is depleted to the extent that there does not remain a sufficient supply of gas to operate its plant.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 13, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 2, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure on cases where a request therefor is made.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-7548; Filed, Sept. 10, 1959; 8:46 a.m.]

[Docket Nos. G-15542, G-15813]

OHIO OIL CO. AND MPS PRODUCTION CO., INC., ET AL.

Order Severing Applications and Denying Motions for Reconsideration

SEPTEMBER 4, 1959.

MPS Production Co., Inc., et al. (MPS) and The Ohio Oil Company (Ohio), collectively referred to as Petitioners, filed motions in the above-captioned proceedings on May 1, 1959[1] and May 11, 1959, respectively, for reconsideration of the order of the Commission issued on April 7, 1959 which consolidated the proceedings in these two dockets for purposes of formal hearing. This order also fixed May 13, 1959 as the date of the hearing and further fixed April 27, 1959 as the last day for filing protests or petitions to intervene in the proceedings. In their motions for reconsideration, Petitioners seek to have their applications scheduled for hearing under the Commission's

[1] Commissioner Hussey dissenting.

[1] Also see MPS letter dated April 20, 1959 and filed April 21, 1959.

shortened procedure thus obviating any need for Petitioners to appear and present further evidence in support of their applications. Petitioners further move that these two applications be severed from each other for separate disposition. In addition, MPS requests that the hearing on its application in Docket No. G–15813 be continued until June 3, 1959 or such time thereafter as the Commission may deem appropriate. Pending action by the Commission upon the motions of MPS, the hearing on these two applications scheduled for May 13, 1959 was continued by notice issued on May 8, 1959 to a date to be thereafter fixed by further notice. To date, these applications have not been rescheduled for hearing.

In support of their motions, Petitioners state that compliance with the Commission's order of April 7, 1959 would result in a burden of preparation and expense far exceeding that justified by the impact or importance of the sale sought to be certified, would be an unnecessary economic imposition and constitute an inordinate amount of expenditure when balanced against the returns from the interests involved; that no protests or petitions to intervene have been filed within the time prescribed; and that severance should be granted because there is no relationship between the two consolidated applications. In addition, MPS states that matters and events beyond its control compelled the filing of its application and that continuance would give it sufficient time to prepare for hearing.

The merits of the motion by MPS for a continuance of the hearing until June 3, 1959 need not be considered since any questions with respect thereto have now been rendered moot by the passage of said date. Good cause has not been shown and it is not appropriate to grant the motions for hearing under the Commission's shortened procedure.[2] With respect to the motions for severance, the filing of related applications by Pan American Petroleum Corporation in Docket No. G–15047 and Humble Oil & Refining Company in Docket No. G–15227 makes it appropriate to sever the applications in Docket Nos. G–15542 and G–15313 from each other for purposes of hearing so that all of these matters may be disposed of in an orderly and more expeditious manner.

The Commission further finds:

(1) The grounds relied upon for reconsideration with respect to the aforesaid motions for hearing under the Commission's shortened procedure do not present any questions of law or fact which were not fully considered by the Commission in reaching the decision as set forth in the aforesaid order of April 7, 1959, or which, upon now being considered or reconsidered, warrant the vacation, reversal or modification of the pertinent part of said order or of the decision reached therein as requested and, therefore, the motions for reconsideration should be denied as hereinafter ordered.

[2] See order issued on October 16, 1957, In the Matters of United Gas Pipe Line Company, et al., Docket No. G–12712, et al.

(2) It is necessary and appropriate to carry out the provisions of the Natural Gas Act that the applications in Docket Nos. G–15542 and G–15813 as heretofore consolidated for purposes of hearing as aforesaid be severed from each other as hereinafter ordered.

The Commission orders:

(A) The motions for reconsideration referred to in Findings (1) hereof are hereby denied.

(B) The applications in Docket Nos. G–15542 and G–15813 referred to in Findings (2) hereof are hereby severed.

By the Commission.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59–7549; Filed, Sept. 10, 1959; 8:46 a.m.]

[Docket Nos. G–15047, G–15813]

PAN AMERICAN PETROLEUM CORP. AND MPS PRODUCTION CO., INC., ET AL.

Order Consolidating Applications and Fixing Date of Hearing

SEPTEMBER 4, 1959.

Pan American Petroleum Corporation (Pan Am), a Delaware corporation with principal place of business at 511 South Boston Avenue, Tulsa 3, Oklahoma, filed an application on May 5, 1958 in Docket No. G–15047 for a disclaimer of jurisdiction or, alternatively, for a certificate of public convenience and necessity of limited duration, pursuant to section 7(c) of the Natural Gas Act, authorizing Pan Am to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Pan Am proposes to sell natural gas in interstate commerce to United Fuel Gas Company (United Fuel) for resale. Pan Am, as seller, and United Fuel, as buyer, have entered into a gas purchase agreement, dated January 9, 1958, to terminate January 1, 1979, and filed as Pan Am's FPC Gas Rate Schedule No. 219, whereby Pan Am has dedicated to the performance thereof all of the natural gas, subject to certain reservations, produced from, and attributable to, Pan Am's interests in certain leases down to the base of the Champagne Sand at 12,813 feet in the Erath Field, Vermilion Parish, Louisiana. The contract provides for an initial price of 20.6 cents per Mcf at 15.025 psia plus applicable tax reimbursement. Pan Am seeks a certificate authorizing the sale, "* * * under and in accordance with the gas sales contract * * * during the term of said contract as specified therein, and that said Certificate provide for the expiration thereof simultaneously with the expiration of said gas sales contract, and authorize Applicant to cease said sale at said time".

MPS Production Co., Inc., Oil Drilling, Inc., Investment Corporation of Philadelphia, Riddell Petroleum Corporation, Stephen C. Clark, Johnny Mitchell, Trustee, R. E. Smith, Dean Myers, Louis Pulaski, Ruth Freed Pulaski and Robert I. Sud (MPS, et al.), with addresses c/o MPS Production Co., Inc., 529 Bank of the Southwest Building, Houston 2, Texas, filed a joint application for a certificate of public convenience and necessity on August 4, 1958 in Docket No. G–15813, pursuant to section 7(c) of the Natural Gas Act, authorizing MPS, et al. to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

MPS, et al. propose to sell natural gas in interstate commerce to United Fuel for resale. MPS, et al. have entered into an agreement with United Fuel, dated July 17, 1958, whereby MPS, et al. have severally adopted as their own, except for dedicated acreage, the gas purchase agreement between Pan Am and United Fuel described above in Docket No. G–15047, viz. Pan Am's FPC Gas Rate Schedule No. 219. Under the agreement for adoption, MPS, et al. adopt all of the terms and conditions of the said Pan Am contract, and MPS et al. severally dedicate to the performance thereof their respective interests in 9 leases located in the Erath Field, Vermilion Parish, Louisiana. This adoption agreement also states that MPS, et al. have entered into an Operating Agreement with Pan Am covering said 9 leases under the terms of which Pan Am is obligated to deliver their gas to United Fuel.

Heretofore, by order issued on April 7, 1959, In the Matters of The Ohio Oil Company, et al., Docket Nos. G–15542, et al., and published in the FEDERAL REGISTER on April 14, 1959 (24 F.R. 2848), the application of MPS, et al. in Docket No. G–15813 was described and consolidated for purposes of formal hearing with the application of The Ohio Oil Company in Docket No. G–15542. This order fixed April 27, 1959 as the last day for filing protests or petitions to intervene and scheduled the applications in Docket Nos. G–15813 and G–15542 as then consolidated for formal hearing on May 13, 1959. Thereafter, by notice issued on May 8, 1959 in the proceedings as then consolidated and published in the FEDERAL REGISTER on May 14, 1959 (24 F.R. 3897) the hearing was postponed to a date to be thereafter fixed in order to give consideration to additional filings made in said proceedings. The matters referred to have been disposed of by separate order to be issued prior to or concurrently with this order. Among other things, the separate order referred to severs the applications in Docket Nos. G–15813 and G–15542 which were heretofore consolidated as aforesaid.

The Commission finds: The applications in Docket Nos. G–15047 and G–15813 should be heard on a consolidated record.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's

rules of practice and procedure, a hearing will be held on October 20, 1959, at 10:00 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street, NW., Washington, D.C., concerning the matters involved in and the issues presented by the applications in Docket Nos. G–15047 and G–15813.

(B) Protests or petitions to intervene in Docket Nos. G–15047 and G–15813 may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before September 25, 1959.

By the Commission.[1]

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59–7550; Filed, Sept. 10, 1959; 8:47 a.m.]

[Docket No. G–8288, etc.]

SUN OIL CO.

Notice of Postponement of Hearing

SEPTEMBER 4, 1959.

Upon consideration of the motion filed September 2, 1959, by Counsel for Sun Oil Company for postponement of the hearing now scheduled for September 15, 1959, in the above-designated matters:

The hearing now scheduled for September 15, 1959, is hereby postponed to September 29, 1959, at 10:00 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street, N.W., Washington, D.C.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59–7551; Filed, Sept. 10, 1959; 8:47 a.m.]

[Docket No. G–19262, etc.]

W. B. OSBORN, JR., ET AL.

Order for Hearings and Suspending Proposed Changes in Rates

Correction

In F.R. Document 59–7499, appearing in the issue for Thursday, September 10, 1959, at page 7287, the following material was inadvertently omitted and should be inserted immediately following the second paragraph of above stated document:

Respondent	Rate schedule No.	Supplement No.
W. B. Osborn, Jr., executor of the estate of W. B. Osborn, Sr.	1	4
Lee Minton	1	4
Delia Minton	1	4
Winnie Lou Jones	1	4
W. B. Osborn, Jr.	1	4
Charlotte Osborn Barrett	1	4
The Altex Corporation	1	2
Jewel Osborn	1	4
Betty Osborn Biedenharn	1	4

[1] Commissioner Hussey dissenting.

Altex, in support of its proposed redetermined rate increase, cites the contract provisions therefor and states that the increase is just and reasonable. Altex also calls attention to the Commission's order issued November 13, 1958, in Docket No. G–9282, terminating the section 5(a) investigation of Altex after finding that the present rate of 12.12268 cents per Mcf was not shown to be unjust and unreasonable.[2] The other Respondents, listed above, make identical statements in support of their proposed redetermined rate increases to the effect that it will be necessary to install additional compressor facilities due to the decline of bottom hole pressure and depletion of the wells in question and submit a graph depicting a decline in deliverability and well pressure. Additionally, these Respondents submit computations purporting to show an estimated 3.18-cent rate of return in 1960 compared with a 3.56-cent rate of return in 1958. The cost data submitted by these Respondents is deemed insufficient for the Commission's staff to make an adequate cost study to determine the justness and reasonableness of the proposed rates.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

FEDERAL RESERVE SYSTEM

BANK STOCK CORPORATION OF MILWAUKEE

Order Approving Application Under Bank Holding Company Act

In the matter of the application of Bank Stock Corporation of Milwaukee for prior approval of action to become a bank holding company under section 3(a)(1) of the Bank Holding Company Act of 1956.

There having come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) and section 4(a)(1) of the Board's Regulation Y (12 CFR 222.4(a)(1)), an application on behalf of Bank Stock Corporation of Milwaukee, a Wisconsin corporation with its principal office in Milwaukee, for the Board's prior approval of action whereby Applicant would become a bank holding company through the acquisition of 80 percent or more of the outstanding voting shares of the Marshall and Ilsley Bank and Northern Bank, both of which are located in Milwaukee; a Notice of Tentative Decision referring to a Tentative Statement on said application having been published in the FEDERAL REGISTER on August 11, 1959 (24 F.R. 6465); the said Notice having provided interested persons an opportunity, before issuance of the Board's Order, to file objections or comments upon the facts stated and the reasons indicated in the Tentative Statement; and the time for filing such comments and objections having expired and no such objections or comments having been filed;

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that the said application be, and hereby is, granted, and the acquisition by Bank Stock Corporation of Milwaukee of 80 per cent or more of the outstanding voting shares of the Marshall and Ilsley Bank and Northern Bank is hereby approved, provided that such acquisition is completed within three months from the date hereof.

Dated at Washington, D.C., this 3d day of September 1959.

By order of the Board of Governors.[2]

[SEAL] KENNETH A. KENYON,
Assistant Secretary.

[F.R. Doc. 59–7552; Filed, Sept. 10, 1959; 8:47 a.m.]

[2] The staff's cost data for the test year 1957 upon which termination of the proceedings were based indicated a unit cost of 12.29 cents per Mcf which is 2.8 cents per Mcf below the proposed rate here.

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington 25, D.C., or to any Federal Reserve Bank.

[2] Voting for this action: Chairman Martin and Governors Szymczak and Mills. Voting against this action: Vice Chairman Balderston and Governor Robertson.

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

VOLUNTARY PLAN OF ARMY ORDNANCE INTEGRATION COMMITTEE ON SMALL ARMS AMMUNITION

Addition of Company Accepting Request To Participate

Pursuant to section 708 of the Defense Production Act of 1950, as amended, there is published the name of the following company which has accepted the request to participate in the Voluntary Plan entitled, "Plan and Regulations of the Ordnance Corps Governing the Integration Committee on Small Arms Ammunition." The request and revised list of acceptances were published in 24 F.R. 2759, dated April 9, 1959, and in 24 F.R. 5875, dated July 22, 1959.

Olin Mathieson Chemical Corporation, 275 Winchester Avenue, New Haven 4, Conn.

(Sec. 708, 64 Stat. 818, as amended, 50 U.S.C. App. Sup. 2158; Executive Order 10480, August 14, 1953, 18 F.R. 4939; Reorganization Plan No. 1 of 1958, 23 F.R. 4991, as amended; Executive Order 10773, July 1, 1958, 23 F.R. 5061; Executive Order 10782, September 6, 1958, 23 F.R. 6971)

Dated: September 2, 1959.

LEO A. HOEGH,
Director, Office of Civil and Defense Mobilization.

[F.R. Doc. 59–7537; Filed, Sept. 10, 1959; 8:45 a.m.]

TEXAS

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order

10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, Executive Order 10773 of July 1, 1958, and Executive Order 10782 of September 6, 1958 (18 F.R. 407, 22 F.R. 8799, 23 F.R. 5061 and 23 F.R. 6971); by virtue of the act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855–1855g), as amended; and in furtherance of a declaration by the President in his letter to me dated July 8, 1959, reading in part as follows:

I hereby determine the damage in the various areas of Texas adversely affected by floods of May and June 1959, to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement State and local efforts.

I do hereby determine the following areas in the State of Texas to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 8, 1959:

Collingsworth County,
Rusk County,
Wheeler County,
City of Overton.

Dated: September 1, 1959.

LEO A. HOEGH,
Director.

[F.R. Doc. 59-7538; Filed, Sept. 10, 1959; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 187]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 8, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62370. By order of September 3, 1959, The Transfer Board approved the transfer to James Ronald Orton, doing business as James R. Orton, Gayville, South Dakota, of the operating rights in Certificates Nos. MC 88880 and MC 88880 Sub 1, issued December 20, 1944, and November 4, 1944, respectively, to Anchor C. Bye, Agnes J. Bye, Administratrix, authorizing the transportation, over irregular routes, of livestock, between farms in South Dakota within 10 miles of Gayville, S. Dak., on the one hand, and, on the other, Sioux City, Iowa, and grain and feed, from Sioux City, Iowa, to farms in South Dakota within 10 miles of Gayville, S. Dak. Don A. Bierle, 308 Walnut Street, Yankton, South Dakota, for applicants.

No. MC-FC 62395. By order of September 3, 1959, The Transfer Board approved the transfer to Nicholas Kerna, doing business as Kerna Transfer, Pittsburgh, Pa., of the operating rights in Certificate No. MC 56251, issued March 24, 1952, to Peter Kerna, doing business as Kerna Transfer, Pittsburgh, Pa., authorizing the transportation, over irregular routes, of glassware, food products, petroleum products, in containers, wire garment hangers, and rough steel castings, from and to specified points in Maryland, Ohio, Pennsylvania, Virginia, and the District of Columbia. James C. Evans, 711 Frick Building, Pittsburgh 19, Pennsylvania, for applicants.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 59-7562; Filed, Sept. 10, 1959; 8:48 a.m.]

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